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FINDINGS  
OF THE  
PORT NECHES-GROVES INDEPENDENT SCHOOL DISTRICT  
BOARD OF TRUSTEES  
UNDER THE  
TEXAS ECONOMIC DEVELOPMENT ACT  
ON THE AMENDED APPLICATION SUBMITTED BY  
AIR LIQUIDE LARGE INDUSTRIES U.S., LP  
*(Texas Taxpayer ID #32035542425)*  
(Application #354)

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December 12, 2016

COUNTY OF JEFFERSON §

On October 10, 2016, the Board of Trustees conducted a public hearing and solicited input into its deliberations on the Application from interested parties within the District. After hearing presentations from the District's administrative staff, and from attorneys and consultants retained by the District to advise the Board in this matter, the Board of Trustees of the Port Neches-Groves Independent School District makes the following findings with respect to the Application of Air Liquide Large Industries U.S., LP #354, and the economic impact of that Application:

The Applicant, Air Liquide Large Industries U.S., LP (Taxpayer Id. No. 32035542425) (“Applicant”), consists of entities subject to Chapter 171, Texas Tax Code, and is certified to be in good standing with the Texas Comptroller of Public Accounts. See **Attachment B**.

Board Findings of the Port Neches-Groves Independent School District

The Board of Trustees acknowledges receipt of the Application, along with the required application fee, as established pursuant to Texas Tax Code § 313.025(a)(1) and Local District Policy.

The Application was delivered to the Texas Comptroller's Office for review pursuant to Texas Tax Code § 313.025(d). A copy of the Application was delivered to the Jefferson County Appraisal District for review pursuant to 34 Texas Administrative Code § 9.1054.

The Application was reviewed by the Texas Comptroller's Office pursuant to Texas Tax Code § 313.026, and a determination that the Application was complete was issued on November 9, 2016. A copy of the Comptroller's completeness letter is attached to the findings as **Attachment C**.

After receipt of the Application, the Texas Comptroller of Public Accounts caused to be conducted an economic impact evaluation on December 9, 2016 pursuant to Texas Tax Code § 313.026 and the Board of Trustees has carefully considered such evaluation. A copy of the economic impact evaluation is attached to these findings as **Attachment D**.

The Board of Trustees also directed that a financial analysis be conducted of the impact of the proposed value limitation on the maintenance and operations revenue of the Port Neches-Groves Independent School District. A copy of a report prepared by Jigsaw School Finance Solutions, LLC is attached to these findings as **Attachment E**.

The Board of Trustees has confirmed that the taxable value of property in the Port Neches-Groves Independent School District for the preceding tax year, as determined under Subchapter M, Chapter 403, Government Code, is as stated in **Attachment F**.

After receipt of the Application, the District submitted a proposed form of Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, in the form required by the Comptroller of Public Accounts. The proposed Agreement and letter approving same are attached to these findings as **Attachment G**.

The Texas Commissioner of Education has determined that the project will not impact school enrollment, as stated in **Attachment H**.

After review of the Comptroller's recommendation, and in consideration of its own economic impact study the Board finds:

**Board Finding Number 1.**

**The Applicant qualifies for a limitation on appraised value of Qualified Property under Section 313.024, Texas Tax Code, in the eligibility category of Manufacturing**

**Board Finding Number 2.**

**The Applicant's entire proposed investment in the Port Neches-Groves ISD is \$117,000,000—all of which is proposed to be Qualified Investment under Section 313.021, Texas Tax Code.**

**Board Finding Number 3.**

**The average salary level of qualifying jobs is expected to be at least \$67,230 per year. The review of the Application by the State Comptroller's Office indicates that this amount-based on Texas Workforce Commission data-complies with the requirement that qualifying jobs pay more than the minimum weekly wage required for Qualified Jobs under Section 313.021, Texas Tax Code.**

**Board Finding Number 4.**

**The level of the Applicant's average investment per qualifying job over the term of the Agreement is estimated to be approximately 16 million on the basis of the 7 new qualifying positions committed to by the Applicant for this project.**

In support of Finding 4, the economic impact evaluation states:

The project's total investment is \$117,000,000, resulting in a relative level of investment per qualifying job of \$16,714,286.

**Board Finding Number 5.**

**The Applicant requested a waiver of the job creation requirement under Section 313.25(f-1), Texas Tax Code, and the Board finds such waiver request should be granted.**

In support of Finding 5, the Board notes that based upon the information provided by the Applicant with regard to the industry standard for staffing ratios of similar projects in the State of Texas, the number of jobs proposed for this project (7 qualifying jobs) is consistent with industry standards in the manufacturing industry.

**Board Finding Number 6.**

**Subsequent economic effects on the local and regional tax bases will be significant. In addition, the impact of the added infrastructure will be significant to the region.**

In support of Finding 6, the economic impact evaluation states:

Table 1 depicts this project's estimated economic impact to Texas. It depicts the direct, indirect and induced effects to employment and personal income within the state. The Comptroller's office calculated the economic impact based on 15 years of annual investment and employment levels.

**Table 1: Estimated Statewide Economic Impact of Air Liquide Large Industries U.S., LP (modeled):**

**Table 1: Estimated Statewide Economic Impact of Investment and Employment in Air Liquide Large Industries US, LP**

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2014	55	79	134	\$5,500,000	\$4,500,000	\$10,000,000
2015	55	78	133	\$5,500,000	\$5,500,000	\$11,000,000
2016	8	31	39	\$600,000	\$2,400,000	\$3,000,000
2017	8	24	32	\$600,000	\$2,400,000	\$3,000,000
2018	8	25	33	\$600,000	\$2,400,000	\$3,000,000
2019	8	27	35	\$600,000	\$2,400,000	\$3,000,000
2020	8	27	35	\$600,000	\$3,400,000	\$4,000,000
2021	8	27	35	\$600,000	\$2,400,000	\$3,000,000
2022	8	27	35	\$600,000	\$3,400,000	\$4,000,000
2023	8	29	37	\$600,000	\$3,400,000	\$4,000,000
2024	8	23	31	\$600,000	\$3,400,000	\$4,000,000
2025	8	27	35	\$600,000	\$3,400,000	\$4,000,000
2026	8	25	33	\$600,000	\$2,400,000	\$3,000,000
2027	8	23	31	\$600,000	\$2,400,000	\$3,000,000
2028	8	23	31	\$600,000	\$3,400,000	\$4,000,000
2029	8	21	29	\$600,000	\$3,400,000	\$4,000,000

Source: CPA, REMI, Air Liquide Large Industries US, LP

Table 2 examines the estimated direct impact on ad valorem taxes to the school district, Jefferson County, Jefferson Co. Drainage District #7, and Jefferson Co. Navigation District with all property tax incentives sought being granted using estimated market value from Air Liquide Large Industries U.S., LP's Application.

Board Findings of the Port Neches-Groves Independent School District

**Table 2 Estimated Direct Ad Valorem Taxes with all property tax incentives sought**

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate <sup>1</sup>	Port Neches-Groves ISD I&S Tax Levy	Port Neches-Groves ISD M&O Tax Levy	Groves ISD M&O and I&S Tax Levies (Before Credit)	Groves ISD M&O and I&S Tax Levies (After Credit Credited)	Jefferson County Tax Levy	Jefferson County Navigation District Tax Levy	Jefferson Co. Drainage District #7 Tax Levy	Estimated Total Property Taxes
2015	\$27,500,000	\$27,500,000		\$95,719	\$286,000	\$381,719	\$381,719	\$0	\$0	\$0	\$381,719
2016	\$117,000,000	\$117,000,000		\$407,242	\$1,216,800	\$1,624,042	\$1,624,042	\$0	\$0	\$0	\$1,624,042
2017	\$113,490,000	\$30,000,000		\$395,025	\$312,000	\$707,025	\$707,025	\$41,424	\$3,163	\$15,966	\$767,608
2018	\$110,085,000	\$30,000,000		\$383,173	\$312,000	\$695,173	\$695,173	\$40,181	\$3,068	\$15,516	\$654,681
2019	\$106,782,000	\$30,000,000		\$371,676	\$312,000	\$683,676	\$683,676	\$38,975	\$2,976	\$15,061	\$611,421
2020	\$103,579,000	\$30,000,000		\$360,527	\$312,000	\$672,527	\$672,527	\$37,720	\$2,870	\$14,558	\$594,677
2021	\$100,472,000	\$30,000,000		\$349,713	\$312,000	\$661,713	\$661,713	\$36,473	\$2,763	\$14,054	\$574,950
2022	\$97,458,000	\$30,000,000		\$339,222	\$312,000	\$651,222	\$651,222	\$35,223	\$2,657	\$13,550	\$554,432
2023	\$94,534,000	\$30,000,000		\$329,044	\$312,000	\$641,044	\$641,044	\$34,049	\$2,551	\$13,046	\$534,646
2024	\$91,698,000	\$30,000,000		\$319,173	\$312,000	\$631,173	\$631,173	\$32,832	\$2,445	\$12,542	\$514,159
2025	\$88,947,000	\$30,000,000		\$309,598	\$312,000	\$621,598	\$621,598	\$31,615	\$2,339	\$12,038	\$494,973
2026	\$86,279,000	\$30,000,000		\$300,311	\$312,000	\$612,311	\$612,311	\$30,400	\$2,233	\$11,534	\$475,045
2027	\$83,691,000	\$30,000,000		\$291,303	\$312,000	\$603,303	\$603,303	\$29,183	\$2,127	\$11,030	\$455,540
2028	\$81,180,000	\$30,000,000		\$282,563	\$312,000	\$594,563	\$594,563	\$27,966	\$2,021	\$10,526	\$436,115
2029	\$78,745,000	\$30,000,000		\$274,088	\$312,000	\$586,088	\$586,088	\$26,750	\$1,915	\$10,022	\$417,065
						Total	\$12,288,336	\$3,168,745	\$241,953	\$1,223,648	\$16,892,681

Assumes School Value Limitation and Tax Abatements with Jefferson County, Jefferson Co. Navigation District and Jefferson Co. Drainage District #7.

Source: CPA, Air Liquide Large Industries US, LP

<sup>1</sup>Tax Rate per \$100 Valuation

Table 3 illustrates the estimated tax impact of the Applicant's project on the region if all taxes are assessed.

Table 3 Estimated Direct Ad Valorem Taxes without property tax incentives											
Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Port Neches-Groves ISD I&S Tax Levy	Port Neches-Groves ISD M&O Tax Levy	Port Neches-Groves ISD M&O and I&S Tax Levies	Jefferson County Tax Levy	Jefferson County Navigation District Tax Levy	Jefferson Co. Drainage District #7 Tax Levy	Estimated Total Property Taxes	
			Tax Rate <sup>1</sup>	0.348070	1.040000		0.365000	0.027870	0.140949		
2015	\$27,500,000	\$27,500,000		\$95,719	\$286,000	\$381,719	\$100,375	\$7,664	\$38,761	\$528,519	
2016	\$117,000,000	\$117,000,000		\$407,242	\$1,216,800	\$1,624,042	\$427,050	\$32,608	\$164,910	\$2,248,610	
2017	\$113,490,000	\$113,490,000		\$395,025	\$1,180,296	\$1,575,321	\$414,239	\$31,630	\$159,963	\$2,181,152	
2018	\$110,085,000	\$110,085,000		\$383,173	\$1,144,884	\$1,528,057	\$401,810	\$30,681	\$155,164	\$2,115,712	
2019	\$106,782,000	\$106,782,000		\$371,676	\$1,110,533	\$1,482,209	\$389,754	\$29,760	\$150,508	\$2,052,232	
2020	\$103,579,000	\$103,579,000		\$360,527	\$1,077,222	\$1,437,749	\$378,063	\$28,867	\$145,994	\$1,990,673	
2021	\$100,472,000	\$100,472,000		\$349,713	\$1,044,909	\$1,394,622	\$366,723	\$28,002	\$141,614	\$1,930,960	
2022	\$97,458,000	\$97,458,000		\$339,222	\$1,013,563	\$1,352,785	\$355,722	\$27,162	\$137,366	\$1,873,035	
2023	\$94,534,000	\$94,534,000		\$329,044	\$983,154	\$1,312,198	\$345,049	\$26,347	\$133,245	\$1,816,839	
2024	\$91,698,000	\$91,698,000		\$319,173	\$953,659	\$1,272,832	\$334,698	\$25,556	\$129,247	\$1,762,334	
2025	\$88,947,000	\$88,947,000		\$309,598	\$925,049	\$1,234,647	\$324,657	\$24,790	\$125,370	\$1,709,463	
2026	\$86,279,000	\$86,279,000		\$300,311	\$897,302	\$1,197,613	\$314,918	\$24,046	\$121,609	\$1,658,187	
2027	\$83,691,000	\$83,691,000		\$291,303	\$870,386	\$1,161,690	\$305,472	\$23,325	\$117,962	\$1,608,418	
2028	\$81,180,000	\$81,180,000		\$282,563	\$844,272	\$1,126,835	\$296,307	\$22,625	\$114,422	\$1,560,189	
2029	\$78,745,000	\$78,745,000		\$274,088	\$818,948	\$1,093,037	\$287,419	\$21,946	\$110,990	\$1,513,392	
						Total	\$19,175,355	\$5,042,256	\$385,007	\$1,947,126	\$26,549,744

Source: CPA, Air Liquide Large Industries US, LP

<sup>1</sup>Tax Rate per \$100 Valuation

**Board Finding Number 7.**

**The revenue gains that will be realized by the school district if the Application is approved will be significant in the long-term, with special reference to revenues used for supporting school district debt.**

**Board Finding Number 8.**

**The effect of the Applicant's proposal, if approved, on the number or size of needed school district instructional facilities is not expected to increase the District's facility needs, with current trends suggesting little underlying enrollment growth based on the impact of the project.**

In support of Finding 8, the Board refers to the finding of the Texas Commissioner of Education at **Attachment H** to these findings.

**Board Finding Number 9.**

**The limitation on appraised value requested by the Applicant is a determining factor in the Applicant's decision to invest capital and construct the project in this state.**

**Board Finding Number 10.**

**The ability of the Applicant to locate the proposed facility in another state or another region of this state is substantial, as a result of the highly competitive marketplace for economic development.**

In support of Findings Nos. 9 and 11, **Attachment C** of the economic impact study states:

According to Air Liquide Large Industries U.S., LP's Application, Air Liquide Large Industries World Business Line has established its presence around the world through its design and installation of more than 400 air separation units (ASUs), some 100 hydrogen production plants (of which 38 are major units) and 18 cogeneration units. This presence is strengthened by the Group's vast pipeline network, which allows Air Liquide to meet the air, gas, and hydrogen requirements of major customers in some of the world's largest industrial basins, in the United States, Europe, and Asia. This project can be built and installed anywhere on the pipeline that runs from Corpus Christi, Texas to Lake Charles, Louisiana.

**Board Finding Number 11.**

The Board of Trustees of the Port Neches-Groves Independent School District hired consultants to review and verify the information in Application #354. Based upon the consultants' review, the Board has determined that the information provided by the Applicant appears to be true and correct.

**Board Finding Number 12.**

The Board of Trustees has determined that the Tax Limitation Amount requested by the Applicant is currently Thirty Million Dollars, which is consistent with the minimum values currently set out by Texas Tax Code, § 313.054(a).

**Board Finding Number 13.**

The Applicant (Taxpayer Id. 32035542425) is eligible for the limitation on appraised value of Qualified Property as specified in the Agreement based on its "good standing" certification as a franchise-tax paying entity.

**Board Finding Number 14.**

The Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment G, includes adequate and appropriate revenue protection provisions for the District.

**Board Finding Number 15.**

Considering the purpose and effect of the law and the terms of the Agreement, it is in the best interest of the District and the State to enter into the attached Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

*[Signature Page to Follow]*

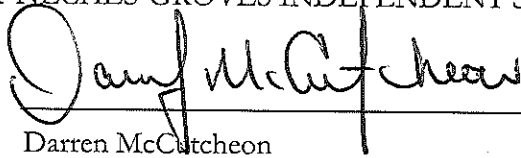


It is therefore ORDERED that the Agreement attached hereto as **Attachment G** is approved and hereby authorized to be executed and delivered by and on behalf of the Port Neches-Groves Independent School District. It is further ORDERED that these findings and the Attachments referred to herein be attached to the official minutes of this meeting, and maintained in the permanent records of the Board of Trustees of the Port Neches-Groves Independent School District.

Dated the 12<sup>th</sup> day of December, 2016.

PORT NECHES-GROVES INDEPENDENT SCHOOL DISTRICT

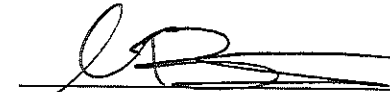
By:



Darren McCutcheon  
President, Board of Trustees

ATTEST:

By:



Scott Bartlett  
Secretary, Board of Trustees

Findings and Order of the Port Neches-Groves Independent School District  
Board of Trustees under the Texas Economic Development Act on the  
Application Submitted by Air Liquide Large Industries U.S., LP (Tax ID 32035542425)  
(Application # 354)

**ATTACHMENT A**  
**Amended Application of**  
**Air Liquide Large Industries U.S., LP**

Blake G. Powell  
Jay Youngblood  
Andrew Tatgenhorst  
Darrick W. Eugene  
William C. Bednar, *of Counsel*



Sara Hardner Leon  
Colby R. Nichols  
Kevin W. Cole  
Annabel Canchola  
Richard Powell, *of Counsel*

October 31, 2016

*Via electronic mail Will.Counihan@cpa.texas.gov*

Mr. Will Counihan  
Director, Data Analysis & Transparency  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

Re : Amendment to Application for Value Limitation Agreement between Port Neches-Groves Independent School District and Air Liquide Large Industries, U.S., LP  
#354

Dear Mr. Counihan:

The Port Neches-Groves Independent School District received and accepted this amendment to the Air Liquide Large Industries U.S., LP Chapter 313 agreement on October 10, 2016. Air Liquide Large proposes to adopt the regional wage rate as it existed as of the date of the initial agreement as the required wage for qualifying jobs. In the original Application, the applicant committed to pay no less than \$75,000 for the six qualifying jobs. By this amendment, Air Liquide seeks to pay \$67,230 for those same jobs. The Amendment also includes updated contact information for the school district and company representatives.

Attached are only those pages of the application as they have been amended.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Sara Leon", written in a cursive style.

Sara Hardner Leon



# Application for Appraised Value Limitation on Qualified Property

(Tax Code, Chapter 313, Subchapter B or C)

**Form 50-296**  
(Revised May 2010)

**INSTRUCTIONS:** This application must be completed and filed with the school district. In order for an application to be processed, the governing body (school board) must elect to consider an application, but — by Comptroller rule — the school board may elect to consider the application only after the school district has received a completed application. Texas Tax Code, Section 313.025 requires that any completed application and any supplemental materials received by the school district must be forwarded within seven days to the Comptroller of Public Accounts.

If the school board elects to consider the application, the school district must:

- notify the Comptroller that the school board has elected to consider the application.

This notice must include:

- the date on which the school district received the application;
- the date the school district determined that the application was complete;
- the date the school board decided to consider the application; and
- a request that the comptroller prepare an economic impact analysis of the application;
- provide a copy of the notice to the appraisal district;
- must complete the sections of the application reserved for the school district and provide information required in the Comptroller rules located at 34 Texas Administrative Code (TAC) Section 9.1054; and
- forward the original completed application to the Comptroller in a three-ring binder with tabs separating each section of the documents, in addition to an electronic copy on CD. See 34 TAC Chapter 9, Subchapter F.

The governing body may, at its discretion, allow the applicant to supplement or amend the application after the filing date, subject to the restrictions in 34 TAC Chapter 9, Subchapter F.

When the Comptroller receives the notice and required information from the school district, the Comptroller will publish all submitted application materials on its Web site. The Comptroller is authorized to treat some application information as confidential and withhold it from publication on the Internet. To do so, however, the information must be segregated and comply with the other requirements set out in the Comptroller rules as explained in the Confidentiality Notice below.

The Comptroller will independently determine whether the application has been completed according to the Comptroller's rules (34 TAC Chapter 9, Subchapter F). If the Comptroller finds the application is not complete, the Comptroller will request additional materials from the school district. When the Comptroller determines that the application is complete, it will send the school district a notice indicating so. The Comptroller will determine the eligibility of the project, make a recommendation to the school board regarding the application and prepare an economic impact evaluation by the 90th day after the Comptroller receives a complete application—as determined by the Comptroller.

The school board must approve or disapprove the application before the 151st day after the application review start date (the date the application is finally determined to be complete), unless an extension is granted. The Comptroller and school district are authorized to request additional information from the applicant that is reasonably necessary to complete the recommendation, economic impact evaluation or consider the application at any time during the application review period.

Please visit the Comptroller's Web site to find out more about the program at <http://www.window.state.tx.us/taxinfo/proptax/hb1200/index.html>. There are links on this Web page to the Chapter 313 statute, rules and forms. Information about minimum limitation values for particular districts and wage standards may also be found at that site.

## SCHOOL DISTRICT INFORMATION - CERTIFICATION OF APPLICATION

### Authorized School District Representative

Date application received by district

First Name

Dr. Rodney

Last Name

Cavness

Title

Superintendent

School District Name

Port Neches-Groves Independent School District

Street Address

620 Avenue C

Mailing Address

Same

City

Port Neches

State

TX

ZIP

77651

Phone Number

(409) 722-4244

Fax Number

(409) 724-7864

Mobile Number (optional)

E-mail Address

rcavness@pngisd.org

I authorize the consultant to provide and obtain information related to this application.. ☒ Yes ☐ No

Will consultant be primary contact? ☒ Yes ☐ No



Form 50-296

## Application for Appraised Value Limitation on Qualified Property

## SCHOOL DISTRICT INFORMATION - CERTIFICATION OF APPLICATION (CONTINUED)

## Authorized School District Consultant (If Applicable)

First Name <b>Sara</b>		Last Name <b>Leon</b>	
Title <b>Attorney</b>			
Firm Name <b>Powell &amp; Leon LLP</b>			
Street Address <b>115 Wild Basin Road, Suite 106</b>			
Mailing Address <b>same</b>			
City <b>Austin</b>		State <b>TX</b>	ZIP <b>78746</b>
Phone Number <b>(512) 494-1177</b>		Fax Number <b>(512) 494-1188</b>	
Mobile Number (Optional)		E-mail Address <b>sleon@powell-leon.com</b>	

I am the authorized representative for the school district to which this application is being submitted. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code.

Signature (Authorized School District Representative)	Date
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Has the district determined this application complete? ..... ☒ Yes ☐ No

If yes, date determined complete. \_\_\_\_\_

Have you completed the school finance documents required by TAC 9.1054(c)(3)? ..... ☒ Yes ☐ No

## SCHOOL DISTRICT CHECKLIST AND REQUESTED ATTACHMENTS

	Checklist	Page X of 16	Check Completed
1	Date application received by the ISD	1 of 16	✓
2	Certification page signed and dated by authorized school district representative	2 of 16	✓
3	Date application deemed complete by ISD	2 of 16	✓
4	Certification pages signed and dated by applicant or authorized business representative of applicant	4 of 16	✓
5	Completed company checklist	12 of 16	✓
6	School finance documents described in TAC 9.1054(c)(3) (Due within 20 days of district providing notice of completed application)	2 of 16	✓



## APPLICANT INFORMATION - CERTIFICATION OF APPLICATION

## Authorized Business Representative (Applicant)

First Name <b>Hugh</b>		Last Name <b>Spinks</b>	
Title <b>Vice President, Tax</b>			
Organization <b>Air Liquide Large Industries U.S., LP</b>			
Street Address <b>9811 Katy Freeway, Ste. 100</b>			
Mailing Address <b>P.O. Box 460149</b>			
City <b>Houston</b>		State <b>TX</b>	ZIP <b>77056</b>
Phone Number <b>(713) 402-2229</b>		Fax Number <b>(713) 402-2063</b>	
Mobile Number (optional)		Business e-mail Address <b>hugh.spinks@airliquide.com</b>	

Will a company official other than the authorized business representative be responsible for responding to future information requests? ..... ☒ Yes ☐ No

If yes, please fill out contact information for that person.

First Name <b>Jonathan</b>		Last Name <b>Jones</b>	
Title <b>Manager</b>			
Organization <b>Air Liquide Large Industries U.S., LP</b>			
Street Address <b>9811 Katy Freeway, Ste. 100</b>			
Mailing Address <b>P.O. Box 460149</b>			
City <b>Houston</b>		State <b>TX</b>	ZIP <b>77056</b>
Phone Number <b>(713) 402-2011</b>		Fax Number <b>(713) 402-2063</b>	
Mobile Number (optional)		E-mail Address <b>jonathan.jones@airliquide.com</b>	

I authorize the consultant to provide and obtain information related to this application.. ..... ☒ Yes ☐ No

Will consultant be primary contact? ..... ☒ Yes ☐ No



## Application for Appraised Value Limitation on Qualified Property

## APPLICANT INFORMATION - CERTIFICATION OF APPLICATION (CONTINUED)

## Authorized Company Consultant (If Applicable)

First Name

Renn

Last Name

Neilson

Title

Partner

Firm Name

Baker Botts L.L.P.

Street Address

910 Louisiana Street

Mailing Address

same

City

Houston

State

TX

ZIP

77002

Phone Number

(713) 229-1671

Fax Number

(713) 229-7971

Business email Address

I am the authorized representative for the business entity for the purpose of filing this application. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code. The information contained in this application is true and correct to the best of my knowledge and belief.

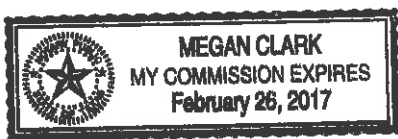
I hereby certify and affirm that the business entity I represent is in good standing under the laws of the state in which the business entity was organized and that no delinquent taxes are owed to the State of Texas.

Signature (Authorized Business Representative (Applicant))

Date

10-4-16

GIVEN under my hand and seal of office this 4th day of October, 2016



(Notary Seal)

Notary Public, State of Texas

My commission expires 2/26/2017

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code § 37.10.



Form 50-296

## Application for Appraised Value Limitation on Qualified Property

## SCHOOL DISTRICT INFORMATION - CERTIFICATION OF APPLICATION (CONTINUED)

## Authorized School District Consultant (If Applicable)

First Name <b>Sara</b>		Last Name <b>Leon</b>	
Title <b>Attorney</b>			
Firm Name <b>Powell &amp; Leon LLP</b>			
Street Address <b>115 Wild Basin Road, Suite 106</b>			
Mailing Address <b>same</b>			
City <b>Austin</b>		State <b>TX</b>	ZIP <b>78746</b>
Phone Number <b>(512) 494-1177</b>		Fax Number <b>(512) 494-1188</b>	
Mobile Number (Optional)		E-mail Address <b>sleon@powell-leon.com</b>	

I am the authorized representative for the school district to which this application is being submitted. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code.

Signature (Authorized School District Representative) 	Date <b>10-10-16</b>
---	-------------------------

Has the district determined this application complete? ..... ☒ Yes ☐ No

If yes, date determined complete. \_\_\_\_\_

Have you completed the school finance documents required by TAC 9.1054(c)(3)? ..... ☒ Yes ☐ No

## SCHOOL DISTRICT CHECKLIST AND REQUESTED ATTACHMENTS

	Checklist	Page X of 16	Check Completed
1	Date application received by the ISD	1 of 16	✓
2	Certification page signed and dated by authorized school district representative	2 of 16	✓
3	Date application deemed complete by ISD	2 of 16	✓
4	Certification pages signed and dated by applicant or authorized business representative of applicant	4 of 16	✓
5	Completed company checklist	12 of 16	✓
6	School finance documents described in TAC 9.1054(c)(3) (Due within 20 days of district providing notice of completed application)	2 of 16	✓





## WAGE AND EMPLOYMENT INFORMATION (CONTINUED)

For the following three wage calculations please include on an attachment the four most recent quarters of data for each wage calculation. Show the average and the 110% calculation. Include documentation from TWC Web site. The final actual statutory minimum annual wage requirement for the applicant for each qualifying job — which may differ slightly from this estimate — will be based on information from the four quarterly periods for which data were available at the time of the application review start date (date of a completed application). See TAC §9.1051(7).

110% of the county average weekly wage for all jobs (all industries) in the county is \$1,068.38

110% of the county average weekly wage for manufacturing jobs in the county is \$1,932.15

110% of the county average weekly wage for manufacturing jobs in the region is \$1,292.88

Please identify which Tax Code section you are using to estimate the wage standard required for this project:

☐ §313.021(5)(A) or ☐ §313.021(5)(B) or ☐ §313.021(3)(E)(ii), or ☐ §313.051(b)?

What is the estimated minimum required annual wage for each qualifying job based on the qualified property? \$67,230

What is the estimated minimum required annual wage you are committing to pay for each of the qualifying jobs you create on the qualified property? \$67,230

Will 80% of all new jobs created by the owner be qualifying jobs as defined by 313.021(3)? ☒ Yes ☐ No

Will each qualifying job require at least 1,600 of work a year? ☒ Yes ☐ No

Will any of the qualifying jobs be jobs transferred from one area of the state to another? ☐ Yes ☒ No

Will any of the qualifying jobs be retained jobs? ☐ Yes ☒ No

Will any of the qualifying jobs be created to replace a previous employee? ☐ Yes ☒ No

Will any required qualifying jobs be filled by employees of contractors? ☐ Yes ☒ No

If yes, what percent? N/A

Does the applicant or contractor of the applicant offer to pay at least 80% of the employee's health insurance premium for each qualifying job? ☒ Yes ☐ No

Describe each type of benefits to be offered to qualifying jobholders. (Use attachments as necessary.)

# See Attachment 15

## ECONOMIC IMPACT

Is an Economic Impact Analysis attached (If supplied by other than the Comptroller's office)? ☐ Yes ☒ No

Is Schedule A completed and signed for all years and attached? ☒ Yes ☐ No

Is Schedule B completed and signed for all years and attached? ☒ Yes ☐ No

Is Schedule C (Application) completed and signed for all years and attached? ☒ Yes ☐ No

Is Schedule D completed and signed for all years and attached? ☒ Yes ☐ No

Note: Excel spreadsheet versions of schedules are available for download and printing at URL listed below.

If there are any other payments made in the state or economic information that you believe should be included in the economic analysis, please attach a separate schedule showing the amount for each year affected, including an explanation.

**Air Liquide Large Industries US, LP****Port Neches-Groves ISD - Jefferson County****Chapter 313 Wage Calculation****Private Jobs - All Industries**

Quarter	Year	AVG Weekly Wage*	Annualized
Third	2012	\$ 917	\$ 47,684
Fourth	2012	\$ 1,034	\$ 53,768
First	2013	\$ 1,000	\$ 52,000
Second	2013	\$ 934	\$ 48,568
Average		\$ 971	\$ 50,505
x 110%		<u>\$ 1,068.38</u>	<u>\$ 55,556</u>

**Port Neches-Groves ISD - Jefferson County****Chapter 313 Wage Calculation****Private Manufacturing Jobs**

Quarter	Year	AVG Weekly Wage*	Annualized
Third	2012	\$ 1,583	\$ 82,316
Fourth	2012	\$ 1,785	\$ 92,820
First	2013	\$ 1,999	\$ 103,948
Second	2013	\$ 1,659	\$ 86,268
Average		\$ 1,757	\$ 91,338
x 110%		<u>\$ 1,932.15</u>	<u>\$ 100,472</u>

**Chapter 313 Wage Calculation****Regional Wage Rate\*\***

COG	Year	AVG Weekly *	Annualized
South East Texas	2012	\$ 1,175	\$ 61,118
x 110%		<u>\$ 1,292.88</u>	<u>\$ 67,230</u>

\* See Attached TWC Documentation

\*\* Air Liquide Large Industries US, LP chooses the Regional Wage Rate

Amended

Date Submitted:

Schedule C- Application: Employment Information

Applicant Name  
ISD Name  
Air Liquide Large Industries U.S., LP  
Port Neches-Groves ISD

Form 50-296

		Construction		New Jobs		Qualifying Jobs	
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Column A: Number of Construction FTE's	Column B: Average annual wage rates for construction workers	Column C:	
						Number of new jobs applicant commits to create (cumulative)	Column D: Average annual wage rate for all new jobs.
Tax Credit Period (with 50% cap on credit)	pre- year 1	2014-2015	2014	55	\$ 100,000	0	
	1	2015-2016	2015	55	\$ 100,000	0	
	2	2016-2017	2016			8	\$ 67,230
	3	2017-2018	2017			8	\$ 67,230
	4	2018-2019	2018			8	\$ 67,230
	5	2019-2020	2019			8	\$ 67,230
	6	2020-2021	2020			8	\$ 67,230
	7	2021-2022	2021			8	\$ 67,230
	8	2022-2023	2022			8	\$ 67,230
	9	2023-2024	2023			8	\$ 67,230
	10	2024-2025	2024			8	\$ 67,230
	11	2025-2026	2025			8	\$ 67,230
	12	2026-2027	2026			8	\$ 67,230
	13	2027-2028	2027			8	\$ 67,230
	14	2028-2029	2028			8	\$ 67,230
	15	2029-2030	2029			8	\$ 67,230
Complete tax years of qualifying time period						0	
Value Limitation Period							
Continue to Maintain Viable Presence							
Post- Settle-Up Period							
Post- Settle-Up Period							

Notes: For job definitions see TAC §9.1051(14) and Tax Code §313.021(3).

This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years. If original estimates have not changed, enter those amounts for future years.

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

10-6-16

DATE

Findings and Order of the Port Neches-Groves Independent School District  
Board of Trustees under the Texas Economic Development Act on the  
Application Submitted by Air Liquide Large Industries U.S., LP  
(Tax ID 32035542425)  
(Application # 354)

**ATTACHMENT B**  
**Franchise Account Status of**  
**Air Liquide Large Industries U.S., LP**



## Franchise Tax Account Status

As of : 12/08/2016 10:28:40

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**This Page is Not Sufficient for Filings with the Secretary of State**

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<b>AIR LIQUIDE LARGE INDUSTRIES U.S. LP</b>	
<b>Texas Taxpayer Number</b>	32035542425
<b>Mailing Address</b>	9811 KATY FWY STE 100 HOUSTON, TX 77024-1274
<b>Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	DE
<b>Effective SOS Registration Date</b>	09/08/2004
<b>Texas SOS File Number</b>	0800387095
<b>Registered Agent Name</b>	CAPITOL CORPORATE SERVICES, INC.
<b>Registered Office Street Address</b>	206 E. 9TH STREET, SUITE 1300 AUSTIN, TX 78701

Findings and Order of the Port Neches-Groves Independent School District  
Board of Trustees under the Texas Economic Development Act on the  
Application Submitted by Air Liquide Large Industries U.S., LP  
(Tax ID 32035542425)  
(Application # 354)

**ATTACHMENT C**  
**Comptroller Letter of**  
**November 9, 2016 Certifying**  
**Application as Complete**



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O. Box 13528 • Austin, TX 78711-3528

November 9, 2016

AMENDED COMPLETENESS

Dr. Rodney Cavness  
Superintendent  
Port Neches-Groves Independent School District  
620 Avenue C  
Port Neches, Texas 77651

Re: Application for Limitation on Appraised Value of Property for School District  
Maintenance and Operations Taxes by and between Port Neches-Groves  
Independent School District and Air Liquide Industries U.S., LP, Application 354

Dear Superintendent Cavness:

On November 3, 2016, the Comptroller's office received from Port Neches-Groves Independent School District an agreement amendment from Air Liquide Industries U.S., LP for a limitation on appraised value (Application 354).

The purpose of this letter is to inform you that the Comptroller's office has reviewed the amendment and determined that it includes the information necessary to be determined as complete on November 9, 2016. The Comptroller shall provide a revised economic impact evaluation and recommendation on or before the 91 day from the date of this letter or the prior recommendation shall remain the recommendation.

Please be advised we may request additional or clarifying information to complete our evaluation.

Should you have any questions, please contact Michelle Luera with our office. She can be reached by email at [michelle.luera@cpa.texas.gov](mailto:michelle.luera@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 3-6053, or at 512-463-6053.

Sincerely,

Will Counihan  
Director  
Data Analysis & Transparency

cc: Sara Leon, Powell & Leon LLP  
Hugh Spinks, Air Liquide Large Industries U.S., LP  
Renn Neilson, Baker Botts LLP

Findings and Order of the Port Neches-Groves Independent School District  
Board of Trustees under the Texas Economic Development Act on the  
Application Submitted by Air Liquide Large Industries U.S., LP  
(Tax ID 32035542425)  
(Application # 354)

**ATTACHMENT D**  
**Comptroller's Economic Impact Analysis**





**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O. Box 13528 • Austin, TX 78711-3528

December 9, 2016

**REVISED RECOMMENDATION**

Dr. Rodney Cavness  
Superintendent  
Port Neches-Groves Independent School District  
620 Avenue C  
Port Neches, Texas 77651

Re: Amended Recommendation for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes by and between Port Neches-Groves Independent School District and Air Liquide Industries U.S., LP, Application 354

Dear Superintendent Cavness:

On December 11, 2013, the Comptroller received the completed application (Application 354) for a limitation on appraised value under the provisions of Tax Code Chapter 313<sup>(1)</sup>. This application was originally submitted in November 2013 to the Port Neches-Groves Independent School District (the school district) by Air Liquide Industries U.S., LP (the applicant).

At the time of application, the school district was classified as a rural school district in Category 2 according to the provisions of Chapter 313. Therefore, the applicant properly applied under the provisions of Subchapter C, applicable to rural school districts.

On November 3, 2016, the Comptroller received an amendment to the application to:  
(a) adopt the regional wage as it existed on the date of the initial agreement

The Comptroller's recommendation is based on the amended application submitted by the school district and reviewed by the Comptroller. The recommendation may not be used by the school district to support its approval of the amended property value limitation agreement if the amended application is modified, the information presented in the amended application changes, or the amended limitation agreement does not conform to the amended application. Additionally, this recommendation is contingent on future compliance with the Chapter 313 and the Texas Administrative Code, with particular reference to the following requirements related to the execution of the agreement:

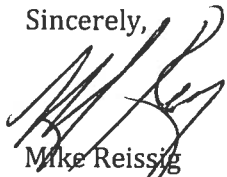
- 1) The applicant must provide the Comptroller a copy of the proposed amended limitation on appraised value agreement no later than ten (10) days prior to the meeting scheduled by the school district to consider approving the agreement, so that the Comptroller may review it for

<sup>(1)</sup> All statutory references are to the Texas Tax Code, unless otherwise noted.

- compliance with the statutes and the Comptroller's rules as well as consistency with the application;
- 2) The Comptroller must confirm that it received and reviewed the draft amended agreement and affirm the recommendation made in this letter;
  - 3) The school district must approve and execute an amended limitation agreement that has been reviewed by the Comptroller; and
  - 4) The school district must provide a copy of the signed amended limitation agreement to the Comptroller within seven (7) days after execution, as required by Section 313.025.

Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at [will.counihan@cpa.texas.gov](mailto:will.counihan@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,



Mike Reissig  
Deputy Comptroller

Enclosure

cc: Will Counihan

**Economic Impact for Chapter 313 Project**

Applicant	Air Liquide Large Industries U.S., LP
Tax Code, 313.024 Eligibility Category	Manufacturing
School District	Port-Neches Groves ISD
2012-13 Enrollment in School District	4,850
County	Jefferson County
Total Investment in District	\$117,000,000
Qualified Investment	\$117,000,000
Limitation Amount	\$30,000,000
Number of total jobs committed to by applicant	8*
Number of qualifying jobs committed to by applicant	7
Average Weekly Wage of Qualifying Jobs committed to by applicant	\$1,293
Minimum Weekly Wage Required Tax Code, 313.051(b)	\$1,175
Minimum Annual Wage committed to by applicant for qualified jobs	\$67,230
Investment per Qualifying Job	\$16,714,286
Estimated 15 year M&O levy without any limit or credit:	\$14,366,976
Estimated gross 15 year M&O tax benefit	\$6,917,019
Estimated 15 year M&O tax benefit (after deductions for estimated school district revenue protection--but not including any deduction for supplemental payments or extraordinary educational expenses):	\$6,037,766
Tax Credits (estimated - part of total tax benefit in the two lines above - appropriated through Foundation School Program)	\$904,800
Net M&O Tax (15 years) After Limitation, Credits and Revenue Protection:	\$8,329,210
Tax benefit as a percentage of what applicant would have paid without value limitation agreement (percentage exempted)	42.0%
Percentage of tax benefit due to the limitation	86.9%
Percentage of tax benefit due to the credit	13.1%
* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).	

**Economic Impact for Chapter 313 Project**

Applicant	Air Liquide Large Industries US, LP
Tax Code, 313.024 Eligibility Category	Manufacturing
School District	Port-Neches Groves ISD
2012-13 Enrollment in School District	4,850
County	Jefferson County
Total Investment in District	\$117,000,000
Qualified Investment	\$117,000,000
Limitation Amount	\$30,000,000
Number of total jobs committed to by applicant	8*
Number of qualifying jobs committed to by applicant	7
Average Weekly Wage of Qualifying Jobs committed to by applicant	\$1,442
Minimum Weekly Wage Required Tax Code, 313.051(b)	\$1,175
Minimum Annual Wage committed to by applicant for qualified jobs	\$75,000
Investment per Qualifying Job	\$16,714,286
Estimated 15 year M&O levy without any limit or credit:	\$14,366,976
Estimated gross 15 year M&O tax benefit	\$6,917,019
Estimated 15 year M&O tax benefit (after deductions for estimated school district revenue protection--but not including any deduction for supplemental payments or extraordinary educational expenses):	\$6,037,766
Tax Credits (estimated - part of total tax benefit in the two lines above - appropriated through Foundation School Program)	\$904,800
Net M&O Tax (15 years) After Limitation, Credits and Revenue Protection:	\$8,329,210
Tax benefit as a percentage of what applicant would have paid without value limitation agreement (percentage exempted)	42.0%
Percentage of tax benefit due to the limitation	86.9%
Percentage of tax benefit due to the credit	13.1%
* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).	



This presents the Comptroller's economic impact evaluation of Air Liquide Large Industries US, LP (the project) applying to Port Neches-Groves Independent School District (the district), as required by Tax Code, 313.026. This evaluation is based on information provided by the applicant and examines the following criteria:

- (1) the recommendations of the comptroller;
- (2) the name of the school district;
- (3) the name of the applicant;
- (4) the general nature of the applicant's investment;
- (5) the relationship between the applicant's industry and the types of qualifying jobs to be created by the applicant to the long-term economic growth plans of this state as described in the strategic plan for economic development submitted by the Texas Strategic Economic Development Planning Commission under Section 481.033, Government Code, as that section existed before February 1, 1999;
- (6) the relative level of the applicant's investment per qualifying job to be created by the applicant;
- (7) the number of qualifying jobs to be created by the applicant;
- (8) the wages, salaries, and benefits to be offered by the applicant to qualifying job holders;
- (9) the ability of the applicant to locate or relocate in another state or another region of this state;
- (10) the impact the project will have on this state and individual local units of government, including:
  - (A) tax and other revenue gains, direct or indirect, that would be realized during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller; and
  - (B) economic effects of the project, including the impact on jobs and income, during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller;
- (11) the economic condition of the region of the state at the time the person's application is being considered;
- (12) the number of new facilities built or expanded in the region during the two years preceding the date of the application that were eligible to apply for a limitation on appraised value under this subchapter;
- (13) the effect of the applicant's proposal, if approved, on the number or size of the school district's instructional facilities, as defined by Section 46.001, Education Code;
- (14) the projected market value of the qualified property of the applicant as determined by the comptroller;
- (15) the proposed limitation on appraised value for the qualified property of the applicant;
- (16) the projected dollar amount of the taxes that would be imposed on the qualified property, for each year of the agreement, if the property does not receive a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment and projected tax rates clearly stated;
- (17) the projected dollar amount of the taxes that would be imposed on the qualified property, for each tax year of the agreement, if the property receives a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment clearly stated;
- (18) the projected effect on the Foundation School Program of payments to the district for each year of the agreement;
- (19) the projected future tax credits if the applicant also applies for school tax credits under Section 313.103; and
- (20) the total amount of taxes projected to be lost or gained by the district over the life of the agreement computed by subtracting the projected taxes stated in Subdivision (17) from the projected taxes stated in Subdivision (16).

**Wages, salaries and benefits [313.026(6-8)]**

After construction, the project will create eight new jobs when fully operational. Seven of the jobs will meet the criteria for qualifying jobs as specified in Tax Code Section 313.021(3). According to the Texas Workforce Commission (TWC), the regional manufacturing wage for the South East Texas Council of Governments, where Jefferson County is located was \$61,118 in 2013. The annual average manufacturing wage for 2012-2013 for Jefferson County is \$91,338. That same year, the county annual average wage for all industries was \$50,505. In addition to an annual average salary of \$75,000 each qualifying position will receive benefits necessary to comply with the Affordable Care Act, a competitive 401(k) retirement savings plan, vacation, sick leave and skills training. The project's total investment is \$117 million, resulting in a relative level of investment per qualifying job of \$16.7 million.

**Ability of applicant to locate to another state and [313.026(9)]**

According to Air Liquide Large Industries US, LP's application, Air Liquide Large Industries World Business Line has established its presence around the world through its design and installation of more than 400 air separation units (ASUs), some 100 hydrogen production plants (of which 38 are major units) and 18 cogeneration units. This presence is strengthened by the Group's vast pipeline network, which allows Air Liquide to meet the air, gas and hydrogen requirements of major customers in some of the world's largest industrial basins, in the United States, Europe and Asia. This project can be built and installed anywhere on the pipeline that runs from Corpus Christi, TX to Lake Charles, LA.

**Number of new facilities in region [313.026(12)]**

During the past two years, six projects in the South East Texas Council of Governments applied for value limitation agreements under Tax Code, Chapter 313.

**Relationship of applicant's industry and jobs and Texas's economic growth plans [313.026(5)]**

The Texas Economic Development Plan focuses on attracting and developing industries using technology. It also identifies opportunities for existing Texas industries. The plan centers on promoting economic prosperity throughout Texas and the skilled workers that the Air Liquide Large Industries US, LP project requires appear to be in line with the focus and themes of the plan. Texas identified manufacturing as one of six target clusters in the Texas Cluster Initiative. The plan stresses the importance of technology in all sectors of the manufacturing industry.

**Economic Impact [313.026(10)(A), (10)(B), (11), (13-20)]**

Table 1 depicts Air Liquide Large Industries US, LP's estimated economic impact to Texas. It depicts the direct, indirect and induced effects to employment and personal income within the state. The Comptroller's office calculated the economic impact based on 16 years of annual investment and employment levels using software from Regional Economic Models, Inc. (REMI). The impact includes the construction period and the operating period of the project.



**Table 1: Estimated Statewide Economic Impact of Investment and Employment in Air Liquide Large Industries US, LP**

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2014	55	79	134	\$5,500,000	\$4,500,000	\$10,000,000
2015	55	78	133	\$5,500,000	\$5,500,000	\$11,000,000
2016	8	31	39	\$600,000	\$2,400,000	\$3,000,000
2017	8	24	32	\$600,000	\$2,400,000	\$3,000,000
2018	8	25	33	\$600,000	\$2,400,000	\$3,000,000
2019	8	27	35	\$600,000	\$2,400,000	\$3,000,000
2020	8	27	35	\$600,000	\$3,400,000	\$4,000,000
2021	8	27	35	\$600,000	\$2,400,000	\$3,000,000
2022	8	27	35	\$600,000	\$3,400,000	\$4,000,000
2023	8	29	37	\$600,000	\$3,400,000	\$4,000,000
2024	8	23	31	\$600,000	\$3,400,000	\$4,000,000
2025	8	27	35	\$600,000	\$3,400,000	\$4,000,000
2026	8	25	33	\$600,000	\$2,400,000	\$3,000,000
2027	8	23	31	\$600,000	\$2,400,000	\$3,000,000
2028	8	23	31	\$600,000	\$3,400,000	\$4,000,000
2029	8	21	29	\$600,000	\$3,400,000	\$4,000,000

Source: CPA, REMI, Air Liquide Large Industries US, LP

The statewide average ad valorem tax base for school districts in Texas was \$1.65 billion in 2012-2013. Port Neches-Groves ISD's ad valorem tax base in 2012-2013 was \$2.5 billion. The statewide average wealth per WADA was estimated at \$343,155 for fiscal 2012-2013. During that same year, Port Neches-Groves ISD's estimated wealth per WADA was \$442,964. The impact on the facilities and finances of the district are presented in Attachment 2.

Table 2 examines the estimated direct impact on ad valorem taxes to the school district, Jefferson County, Jefferson Co. Drainage District #7 and Jefferson Co. Navigation District with all property tax incentives sought being granted using estimated market value from Air Liquide Large Industries US, LP's application. Air Liquide Large Industries US, LP has applied for both a value limitation under Chapter 313, Tax Code and tax abatements with the county, the drainage district #7 and the navigation district. Table 3 illustrates the estimated tax impact of the Air Liquide Large Industries US, LP project on the region if all taxes are assessed.

**Table 2 Estimated Direct Ad Valorem Taxes with all property tax incentives sought**

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate <sup>1</sup>	Port Neches-Groves ISD I&S Tax Levy	Port Neches-Groves ISD M&O Tax Levy	Groves ISD M&O and I&S Tax Levies (Before Credit)	Groves ISD M&O and I&S Tax Levies (After Credit Credited)	Jefferson County Tax Levy	Jefferson County Navigation District Tax Levy	Jefferson Co. Drainage District #7 Tax Levy	Estimated Total Property Taxes
				0.348070	1.040000			0.365000	0.027870	0.140949	
2015	\$27,500,000	\$27,500,000		\$95,719	\$286,000	\$381,719	\$381,719	\$0	\$0	\$0	\$381,719
2016	\$117,000,000	\$117,000,000		\$407,242	\$1,216,800	\$1,624,042	\$1,624,042	\$0	\$0	\$0	\$1,624,042
2017	\$113,490,000	\$30,000,000		\$395,025	\$312,000	\$707,025	\$707,025	\$41,424	\$3,163	\$15,996	\$767,608
2018	\$110,085,000	\$30,000,000		\$383,173	\$312,000	\$695,173	\$565,916	\$40,181	\$3,068	\$15,516	\$624,681
2019	\$106,782,000	\$30,000,000		\$371,676	\$312,000	\$683,676	\$554,419	\$38,975	\$2,976	\$15,051	\$611,421
2020	\$103,579,000	\$30,000,000		\$360,527	\$312,000	\$672,527	\$543,270	\$117,200	\$8,949	\$45,258	\$714,677
2021	\$100,472,000	\$30,000,000		\$349,713	\$312,000	\$661,713	\$532,456	\$366,723	\$28,002	\$141,614	\$1,068,795
2022	\$97,458,000	\$30,000,000		\$339,222	\$312,000	\$651,222	\$521,965	\$355,722	\$27,162	\$137,366	\$1,042,214
2023	\$94,534,000	\$30,000,000		\$329,044	\$312,000	\$641,044	\$511,787	\$345,049	\$26,347	\$133,245	\$1,016,428
2024	\$91,698,000	\$30,000,000		\$319,173	\$312,000	\$631,173	\$501,916	\$334,698	\$25,556	\$129,247	\$991,418
2025	\$88,947,000	\$88,947,000		\$309,598	\$925,049	\$1,234,647	\$1,234,647	\$324,657	\$24,790	\$125,370	\$1,709,463
2026	\$86,279,000	\$86,279,000		\$300,311	\$897,302	\$1,197,613	\$1,197,613	\$314,918	\$24,046	\$121,609	\$1,658,187
2027	\$83,691,000	\$83,691,000		\$291,303	\$870,386	\$1,161,690	\$1,161,690	\$305,472	\$23,325	\$117,962	\$1,608,448
2028	\$81,180,000	\$81,180,000		\$282,563	\$844,272	\$1,126,835	\$1,126,835	\$296,307	\$22,625	\$114,422	\$1,560,189
2029	\$78,745,000	\$78,745,000		\$274,088	\$818,948	\$1,093,036	\$1,093,036	\$287,419	\$21,946	\$110,990	\$1,513,391
						Total	\$12,258,336	\$3,168,745	\$241,953	\$1,223,648	\$16,892,681

Assumes School Value Limitation and Tax Abatements with Jefferson County, Jefferson Co. Navigation District and Jefferson Co. Drainage District# 7.

Source: CPA, Air Liquide Large Industries US, LP

<sup>1</sup>Tax Rate per \$100 Valuation

**Table 3 Estimated Direct Ad Valorem Taxes without property tax incentives**

Table 3 Estimated Direct Ad Valorem Taxes without property tax incentives											
	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Port Neches-Groves ISD I&S Tax Levy	Port Neches-Groves ISD M&O Tax Levy	Port Neches-Groves ISD M&O and I&S Tax Levies	Jefferson County Tax Levy	Jefferson County Navigation District Tax Levy	Jefferson Co. Drainage District #7 Tax Levy	Estimated Total Property Taxes	
Year			Tax Rate <sup>1</sup>	0.348070	1.040000		0.365000	0.027870	0.140949		
2015	\$27,500,000	\$27,500,000		\$95,719	\$286,000	\$381,719	\$100,375	\$7,664	\$38,761	\$528,519	
2016	\$117,000,000	\$117,000,000		\$407,242	\$1,216,800	\$1,624,042	\$427,050	\$32,608	\$164,910	\$2,248,610	
2017	\$113,490,000	\$113,490,000		\$395,025	\$1,180,296	\$1,575,321	\$414,239	\$31,630	\$159,963	\$2,181,152	
2018	\$110,085,000	\$110,085,000		\$383,173	\$1,144,884	\$1,528,057	\$401,810	\$30,681	\$155,164	\$2,115,712	
2019	\$106,782,000	\$106,782,000		\$371,676	\$1,110,533	\$1,482,209	\$389,754	\$29,760	\$150,508	\$2,052,232	
2020	\$103,579,000	\$103,579,000		\$360,527	\$1,077,222	\$1,437,749	\$378,063	\$28,867	\$145,994	\$1,990,673	
2021	\$100,472,000	\$100,472,000		\$349,713	\$1,044,909	\$1,394,622	\$366,723	\$28,002	\$141,614	\$1,930,960	
2022	\$97,458,000	\$97,458,000		\$339,222	\$1,013,563	\$1,352,785	\$355,722	\$27,162	\$137,366	\$1,873,035	
2023	\$94,534,000	\$94,534,000		\$329,044	\$983,154	\$1,312,198	\$345,049	\$26,347	\$133,245	\$1,816,839	
2024	\$91,698,000	\$91,698,000		\$319,173	\$953,659	\$1,272,832	\$334,698	\$25,556	\$129,247	\$1,762,334	
2025	\$88,947,000	\$88,947,000		\$309,598	\$925,049	\$1,234,647	\$324,657	\$24,790	\$125,370	\$1,709,463	
2026	\$86,279,000	\$86,279,000		\$300,311	\$897,302	\$1,197,613	\$314,918	\$24,046	\$121,609	\$1,658,187	
2027	\$83,691,000	\$83,691,000		\$291,303	\$870,386	\$1,161,690	\$305,472	\$23,325	\$117,962	\$1,608,448	
2028	\$81,180,000	\$81,180,000		\$282,563	\$844,272	\$1,126,835	\$296,307	\$22,625	\$114,422	\$1,560,189	
2029	\$78,745,000	\$78,745,000		\$274,088	\$818,948	\$1,093,037	\$287,419	\$21,946	\$110,990	\$1,513,392	
						Total	\$19,175,355	\$5,042,256	\$385,007	\$1,947,126	\$26,549,744

Source: CPA, Air Liquide Large Industries US, LP

<sup>1</sup>Tax Rate per \$100 Valuation



Attachment 1 includes schedules A, B, C, and D provided by the applicant in the application. Schedule A shows proposed investment. Schedule B is the projected market value of the qualified property. Schedule C contains employment information, and Schedule D contains tax expenditures and other tax abatement information.

Attachment 2, provided by the district and reviewed by the Texas Education Agency, contains information relating to the financial impact of the proposed project on the finances of the district as well as the tax benefit of the value limitation. "Table 5" in this attachment shows the estimated 15 year M&O tax levy without the value limitation agreement would be \$14,366,976. The estimated gross 15 year M&O tax benefit, or levy loss, is \$6,917,019.

Attachment 3 is an economic overview of Jefferson County.

**Disclaimer:** This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Findings and Order of the Port Neches-Groves Independent School District  
Board of Trustees under the Texas Economic Development Act on the  
Application Submitted by Air Liquide Large Industries U.S., LP  
(Tax ID 32035542425)  
(Application # 354)

**ATTACHMENT E**  
**Summary of Financial Impact on**  
**Port Neches-Groves ISD Prepared by**  
**Jigsaw School Finance Solutions, LLC**

SUMMARY OF THE FINANCIAL IMPACT OF THE PROPOSED  
AIR LIQUIDE LARGE INDUSTRIES U.S. LP PROJECT (APPLICATION #354)  
ON THE FINANCES OF PORT NECHES-GROVES ISD UNDER A REQUESTED  
CHAPTER 313 APPRAISED VALUE LIMITATION

PREPARED BY  
JIGSAW SCHOOL FINANCE SOLUTIONS, LLC  
SEPTEMBER 15, 2016

## Introduction

Air Liquide Large Industries U.S. LP (“Air Liquide”) has submitted an amended application to the Port Neches-Groves Independent School District (“PNGISD” or “District”) requesting a value limitation on a manufacturing project located within the school district boundaries under Chapter 313 of the Tax Code. Air Liquide, an international enterprise, is currently constructing a state of the art Air Separation Unit that will be capable of producing 2,400 tons per day of oxygen and 2,600 tons per day of nitrogen. The company estimates that the total investment in this project will be \$117,000,000.

Local government entities in Texas, including school districts, rely heavily on the ad valorem property tax to fund operations and building projects. Thus the property tax burden that Texas imposes on individuals and business entities is higher compared to most other states. Seeking to encourage economic development and to attract large scale capital investment, the 77th Texas Legislature in 2001 enacted House Bill 1200 creating Tax Code Chapter 313, the Texas Economic Development Act. The act as amended by the legislature in 2007, 2009, and 2013 now grants eligibility to companies engaging in manufacturing, advanced clean energy projects, research and development, clean coal projects, renewable electric energy generation, electric power generation using integrated gasification combined cycle technology, nuclear electric power generation and a computer center used primarily in connection to one of the other categories, or a Texas Priority Project. Under the provisions of this law, the Port Neches Independent School District may grant a value limitation for maintenance and operation taxes in the amount of \$30 million dollars for a period of eight years.

The amended application calls for the project to be fully taxable for both maintenance and operation (M&O) and interest and sinking (I&S) during the 2015-16 and 2016-17 school year. Beginning with the 2017-18 school year, the value of the project would be limited to \$30 million for maintenance and operation (M&O) tax purposes and remain limited through the 2024-25 school year. The full value of the project will be taxable for debt service purposes in all years of the agreement.

## School Finance Mechanics

The Texas system of public school funding is based on the ad valorem property tax. Schools levy a tax rate for maintenance and operation (M&O) and interest and sinking (I&S) against a current year tax roll. State funding is calculated using a prior year value certified by the Comptroller's Property Tax Division (CPTD). Texas school districts are funded by some combination of local ad valorem property taxes and state aid. Most of the money that a school district generates through the funding formulas is generated in Tier 1. The Tier 1 formulas start with a Basic Allotment per student of \$5,140. Calculations that use the number of students in average daily attendance, the number of students who participate in special programs, and adjustments for size, sparsity and location determine a Total Cost of Tier 1. A local fund assignment is determined by multiplying the district's compressed tax rate by the previous year (CPTD) property value. This formula determines the local ad valorem property taxes the district must collect in order to satisfy the district's share of the Tier 1 cost. Thus school districts that are relatively property wealthy per student fund most of the Total Cost of Tier 1 with local property taxes while school districts that are relatively property poor per student receive most of the Total Cost of Tier 1 from state aid. Pennies that districts levy over and above the compressed tax rate and up to \$1.17 generate additional state and local funding in Tier 2 Level 1 and Tier 2 Level 2. Current funding formulas provide for a Guaranteed Yield per penny per WADA of \$77.53 for Tier 2 Level 1 and a Guaranteed Yield per penny per WADA of \$319,500 in Tier 2 Level 2. PNGISD is a relatively property rich per student district thus generating most of Maintenance and Operation revenue from local ad valorem property taxes. In an attempt to provide some degree of funding equity among school districts, the formulas provide two equalized wealth levels. A district that exceeds the first equalized wealth level of \$514,000 per weighted ADA is subject to recapture on taxes collected at the compressed rate. A district that exceeds the second equalized wealth level of \$319,500 per weighted ADA is subject to recapture on revenues collected on pennies that exceed six pennies over the

compressed rate. PNGISD currently has property wealth per weighted ADA in excess of the second equalized wealth level. However the District does not levy pennies in excess of six pennies above the compressed rate and thus does not pay recapture. Air Liquide is requesting that the value of the Air Separation Unit project be limited to \$30,000,000 in years three through ten of the agreement. The full value of the project would be subject to interest and sinking taxes (I&S) levied by PNGISD in all years of the agreement.

The Revenue Protection Clause of the proposed agreement calls for the school district to be held harmless against total state and local maintenance and operation revenue losses as a result of the value limitation agreement. Revenue Protection calculations are to be made using whatever property tax laws and school funding formulas are in place at that time in years three through ten of the agreement. In the third year of these agreements, the first year when the value of the property is limited, the school district will likely see a significant loss in total revenue. Estimates show a loss of in the 2017-18 school year of approximately \$900,000. In years four through ten when the prior year CPTD values are more closely aligned to the current year CAD values, no losses or smaller losses in total state and local revenue should be anticipated. As per the language in the contract, the company will be required to make Revenue Protection Payments to the District in an amount equal to the loss of state and local revenue as a result of the limitation in all years of the agreement.

Currently and in all years of the proposed agreement, except for the 2020-21 school year, PNGISD is considered a “formula funded” school district because the state share of Tier 1, plus local collections up to the compressed rate, are higher than the calculated target revenue/hold harmless amount. The exception is the 2020-21 school year where a previously approved Chapter 313 project is moved from full to limited value. State funding formulas assume that the Texas Legislature will act on the “statement of legislative intent” and eliminate Additional State Aid for Tax Reduction. The estimates in this report show PNGISD being impacted by the loss of ASATR in the 2020-21 school year. Formula funded school districts can see significant changes in total funding when property values and maintenance and operations tax collections fluctuate.

### **Underlying Assumptions**

A forecast of the financial impact that the proposed value limitation will have on PNGISD’s future revenue streams is data that will be very useful to the District in terms of the decision to grant the limitation and for the district’s long range financial planning process. Currently 15 years of data and analysis are required during the Chapter 313 application process.

The approach used in this report was to predict 15 years of base data including average daily attendance, M&O and I&S tax rates, maintenance and operation (M&O) tax collections and current year (CAD) values and prior year (CPTD) values for each year of the agreement. Current year (CAD) values and prior year (CPTD) values were forecast both with the full project value and with the limited value of the project. PNGISD currently has other approved Chapter 313 projects. These values have been included in the base data illustrated in **Table 1**.

To isolate the impact of the value limitation on the District’s finances over this 15 year agreement, average daily attendance and maintenance and operation tax rates were held constant at levels that existed in the 2016-17 school year. An ADA of 4,878 and an M&O tax rate of \$1.04 is used for each year forecast. The Jefferson County Appraisal District on July 25, 2016 certified the District’s 2016 current year (CAD) net taxable values at \$2,419,524,885. These values were used as the basis for subsequent current year (CAD) values in this report. The final 2015 T1 and T2 Comptroller Property Tax Division (CPTD) values also certified to school districts in late July were used as a basis for predicting prior year (CPTD) values for each of the agreement years.

The proposed agreement calls for PNGISD to be held harmless against total state and local revenue losses that might occur as a result of the value limitation being in effect for any given year of the agreement. In order to predict when and if these revenue losses may occur, two models were developed. One model illustrated in **Table 2** incorporates the full value of the Air Liquide project into the state and local funding calculations. The other model shown in **Table 3** assumes that only the limited value of the Air Liquide project is available for M&O taxation purposes. In any year of the limitation period where total state and local funding with the full project value exceeds the total state and local funding produced when the limited value is used, a Revenue Protection Payment is indicated for that year. The results of these calculations are illustrated in **Table 4**.

### **Financial Impact on the School District**

Utilizing the assumptions and methodology described above, total maintenance and operation revenue was calculated for each year of the agreement. The calculations show a total loss of state and local revenue in the 2017-18 school year, which is the first year that the limitation is in place. This results from the calculation with the full value of the project included, generating an additional \$868,298 in local tax revenue when compared to the calculation in **Table 3** that factors in only the limited value of the project. The additional tax revenue also results in a higher DTR for Tier 2 in the calculation with the full project value, which produces an additional \$31,825 in Tier 2 state aid. There is no state revenue offset in the calculations with the limited value due to the fact that both the calculations with the full value of the project and the calculations with the limited value of the project both use the same 2016 prior year (CPTD) value. A revenue loss of \$180,510 is shown in 2020-21. In this year, a previously approved Chapter 313 agreement comes off the roll at full value and is limited to \$30 million. This results in an inflated previous year (CPTD) value that moves the calculations both with the full value of the project and with the limited value from formula funding to hold harmless target revenue. Calculations in this year, both with the full project value and with the limited value, show greatly reduced total revenue because ASATR is assumed to be eliminated. The loss of ASATR related to the calculation with the limited value is \$6,158,913, and an ASATR loss related to the calculation with the full project value is \$5,987,936. The calculation for this year assumes that the Texas Legislature will act on their intention of eliminating Additional State Aid for Tax Reduction after the 2016-17 school year. In all other years where the project value is limited, the calculations that include the limited project amounts show revenue gains over the results of the calculations that include the full project value.

### **M&O Impact on Taxpayer**

The terms of the proposed agreement call for the maintenance and operation (M&O) value of the Air Liquide Large Industries U.S. LP project to be limited to \$30 million starting in tax year 2017 (school year 2017-18) and remaining limited through tax year 2024 (school year 2024-25). The potential gross and net tax savings to Air Liquide Large Industries U.S. LP are shown in **Table 5**. As stated earlier, an M&O tax rate of \$1.04 and a collection rate of 100% is used throughout the calculations in this report. **Table 5** shows gross tax savings due to the limitation of just over \$6 million over the length of the contract. Tax savings net of the Revenue Protection Payments are estimated to be \$4,931,594. The company is also eligible for a tax credit for M&O taxes paid in the two qualifying years in excess of the limitation amount. Tax savings available to the company through the tax credits are estimated to be \$729,892. The Texas Education Agency will reimburse PNGISD for any tax credits paid to the company. The potential net tax benefits to the company, including tax credits and factoring in any Revenue Protection Payments, is estimated to be in excess of \$5.6 million. This amount does not include any Supplemental Payments negotiated in the agreement.

### **Facilities Funding Impact**

Reports submitted by Air Liquide show the full value of the property being depreciated over time. Even so the full value of the project will be available to the District and will enhance the District's ability to service current and future debt obligations. Texas funding laws provide assistance to school districts for debt service purposes in the form of the Instructional Facilities Allotment and the Existing Debt Allotment. The formulas provide a guarantee of \$35 per ADA per penny of tax effort. PNGISD has property wealth per ADA that exceeds this amount and is thus not eligible for this state assistance. While the project is expected to provide additional employment opportunities in the area, the impact on student enrollment is predicted to be minimal.

### **Conclusion**

The Air Liquide Air Separation Unit will benefit the community, the District, and Air Liquide. The manufacturing plant brings large scale capital investment to the area and will act as an economic stimulus. PNGISD will benefit from a growing tax base that can be leveraged to provide first class facilities for faculty and students.

The estimates in this report show substantial property tax savings available to Air Liquide due to the 8 year limitation that applies to maintenance and operation (M&O) taxes and the tax credit that will apply to taxes paid in the two qualifying years over and above the limitation amount.

## Tables

**Table 1 - Base District Information Air Liquide Large Industries U.S. LP Project**

Year of Agreement	School Year	ADA	WADA	M&O Tax Rate	I&S Tax Rate	CAD Value with Project	CAD Value with Limitation	CPTD with Project	CPTD With Limitation	CPTD Value with Project per WADA	CPTD Value with Limitation per WADA
QTP 1	2015-16	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,426,434,605	\$ 2,426,434,605	\$ 2,461,844,967	\$ 2,461,844,967	\$ 406,715	\$ 406,715
QTP 2	2016-17	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,419,524,885	\$ 2,419,524,885	\$ 2,480,801,609	\$ 2,480,801,609	\$ 409,847	\$ 409,847
LP 1	2017-18	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,593,932,885	\$ 2,510,442,885	\$ 2,419,524,885	\$ 2,419,524,885	\$ 399,723	\$ 399,723
LP 2	2018-19	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,890,228,185	\$ 2,810,142,885	\$ 2,593,932,885	\$ 2,510,442,885	\$ 428,537	\$ 414,744
LP 3	2019-20	4,878	6,053	\$ 1.04	\$ 0.40	\$ 3,892,315,626	\$ 3,815,532,885	\$ 2,890,228,185	\$ 2,810,142,885	\$ 477,487	\$ 464,256
LP 4	2020-21	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,741,248,144	\$ 2,667,668,885	\$ 3,892,315,626	\$ 3,815,532,885	\$ 643,039	\$ 630,354
LP 5	2021-22	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,725,407,766	\$ 2,654,935,885	\$ 2,741,248,144	\$ 2,667,668,885	\$ 452,874	\$ 440,718
LP 6	2022-23	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,722,393,610	\$ 2,654,935,885	\$ 2,725,407,766	\$ 2,654,935,885	\$ 450,257	\$ 438,615
LP 7	2023-24	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,719,469,878	\$ 2,654,935,885	\$ 2,722,393,610	\$ 2,654,935,885	\$ 449,759	\$ 438,615
LP 8	2024-25	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,793,695,434	\$ 2,731,997,461	\$ 2,719,469,878	\$ 2,654,935,885	\$ 449,276	\$ 438,615
LP 9	2025-26	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,785,309,629	\$ 2,785,309,629	\$ 2,793,695,434	\$ 2,731,997,461	\$ 461,539	\$ 451,346
LP 10	2026-27	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,777,302,928	\$ 2,777,302,928	\$ 2,785,309,629	\$ 2,785,309,629	\$ 460,154	\$ 460,154
VP 1	2027-28	4,878	6,053	\$ 1.04	\$ 0.40	\$ 2,774,714,569	\$ 2,774,714,569	\$ 2,777,302,928	\$ 2,777,302,928	\$ 458,831	\$ 458,831
VP 2	2028-29	4,878	6,053	\$ 1.04	\$ -	\$ 2,772,203,861	\$ 2,772,203,861	\$ 2,774,714,569	\$ 2,774,714,569	\$ 458,403	\$ 458,403
VP 3	2029-30	4,878	6,053	\$ 1.04	\$ -	\$ 2,769,768,474	\$ 2,769,768,474	\$ 2,772,203,861	\$ 2,772,203,861	\$ 457,988	\$ 457,988
VP 4	2030-31	4,878	6,053	\$ 1.04	\$ -	\$ 3,801,288,631	\$ 3,801,288,631	\$ 2,769,768,474	\$ 2,769,768,474	\$ 457,586	\$ 457,586
VP 5	2031-32	4,878	6,053	\$ 1.04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Basic Allotment: \$5140; AISD Yield: 2015-16 \$74.28/2016-17 and beyond \$77.53.; Equalized Wealth: \$514,000 per WADA

**Table 2 - "Baseline Revenue Model" - Project Value Added with No Value Limitation**

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Tier II	Recapture at the \$514,000 Level	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture at the \$319,500 Level	Other State Aid	Total General Fund
QTP 1	2015-16	\$ 24,264,346	\$ 8,354,030	\$ -	\$ 819,971	\$ -	\$ 970,574	\$ -	\$ -	\$ 130,083	\$ 34,539,004
QTP 2	2016-17	\$ 24,195,249	\$ 8,088,458	\$ -	\$ 862,636	\$ -	\$ 967,810	\$ -	\$ -	\$ 121,750	\$ 34,235,903
LP 1	2017-18	\$ 25,939,329	\$ 8,701,225	\$ -	\$ 975,188	\$ -	\$ 1,037,575	\$ -	\$ -	\$ 121,750	\$ 36,775,067
LP 2	2018-19	\$ 28,902,282	\$ 6,957,145	\$ -	\$ 936,045	\$ -	\$ 1,156,091	\$ -	\$ -	\$ 121,750	\$ 38,073,313
LP 3	2019-20	\$ 38,923,156	\$ 3,994,192	\$ -	\$ 971,527	\$ -	\$ 1,556,927	\$ -	\$ -	\$ 306,643	\$ 45,752,445
LP 4	2020-21	\$ 27,412,481	\$ 2,285,914	\$ -	\$ 225,705	\$ (5,380,234)	\$ 1,096,500	\$ -	\$ -	\$ 121,750	\$ 25,762,116
LP 5	2021-22	\$ 27,254,078	\$ 5,483,993	\$ -	\$ 776,674	\$ -	\$ 1,090,163	\$ -	\$ -	\$ 121,750	\$ 34,726,658
LP 6	2022-23	\$ 27,223,936	\$ 5,642,396	\$ -	\$ 786,913	\$ -	\$ 1,088,958	\$ -	\$ -	\$ 121,750	\$ 34,863,953
LP 7	2023-24	\$ 27,194,699	\$ 5,672,538	\$ -	\$ 788,118	\$ -	\$ 1,087,788	\$ -	\$ -	\$ 121,750	\$ 34,864,893
LP 8	2024-25	\$ 27,936,954	\$ 5,701,775	\$ -	\$ 810,993	\$ -	\$ 1,117,479	\$ -	\$ -	\$ 121,750	\$ 35,688,951
LP 9	2025-26	\$ 27,853,096	\$ 4,959,520	\$ -	\$ 757,699	\$ -	\$ 1,114,124	\$ -	\$ -	\$ 534,006	\$ 35,218,445
LP 10	2026-27	\$ 27,773,029	\$ 5,043,378	\$ -	\$ 761,044	\$ -	\$ 1,110,921	\$ -	\$ -	\$ 534,238	\$ 35,222,610
0	2027-28	\$ 27,747,146	\$ 5,123,445	\$ -	\$ 766,155	\$ -	\$ 1,109,886	\$ -	\$ -	\$ 540,039	\$ 35,286,671
VP 2	2028-29	\$ 27,722,039	\$ 5,149,328	\$ -	\$ 767,190	\$ -	\$ 1,108,881	\$ -	\$ -	\$ 540,133	\$ 35,287,571
VP 3	2029-30	\$ 27,697,685	\$ 5,174,435	\$ -	\$ 768,194	\$ -	\$ 1,107,907	\$ -	\$ -	\$ 540,224	\$ 35,288,445
VP 4	2030-31	\$ 38,012,886	\$ 5,198,789	\$ -	\$ 1,055,684	\$ -	\$ 1,520,516	\$ -	\$ -	\$ 1,785,465	\$ 47,573,340
VP 5	2031-32	\$ -	\$ 838,665	\$ -	\$ 204,783	\$ -	\$ 899,783	\$ -	\$ -	\$ 77,500	\$ 2,020,730

**Table 3 - "Value Limitation Revenue Model" - Project Value Added with Value Limit**

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Tier II	Recapture at the \$514,000 Level	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture at the \$319,500 Level	Other State Aid	Total General Fund
QTP 1	2015-16	\$ 24,264,346	\$ 8,354,030	\$ -	\$ 819,971	\$ -	\$ 970,574	\$ -	\$ -	\$ 130,083	\$ 34,539,004
QTP 2	2016-17	\$ 24,195,249	\$ 8,088,458	\$ -	\$ 862,636	\$ -	\$ 967,810	\$ -	\$ -	\$ 121,750	\$ 34,235,903
LP 1	2017-18	\$ 25,104,429	\$ 8,701,225	\$ -	\$ 943,363	\$ -	\$ 1,004,177	\$ -	\$ -	\$ 121,750	\$ 35,874,944
LP 2	2018-19	\$ 28,101,429	\$ 7,792,045	\$ -	\$ 977,646	\$ -	\$ 1,124,057	\$ -	\$ -	\$ 121,750	\$ 38,116,927
LP 3	2019-20	\$ 38,155,329	\$ 4,795,045	\$ -	\$ 1,022,223	\$ -	\$ 1,526,213	\$ -	\$ -	\$ 306,851	\$ 45,805,661
LP 4	2020-21	\$ 26,676,689	\$ 2,285,914	\$ -	\$ 245,604	\$ (4,815,418)	\$ 1,067,067	\$ -	\$ -	\$ 121,750	\$ 25,581,606
LP 5	2021-22	\$ 26,549,359	\$ 6,219,785	\$ -	\$ 805,958	\$ -	\$ 1,061,974	\$ -	\$ -	\$ 121,750	\$ 34,758,826
LP 6	2022-23	\$ 26,549,359	\$ 6,347,085	\$ -	\$ 815,100	\$ -	\$ 1,061,974	\$ -	\$ -	\$ 121,750	\$ 34,895,268
LP 7	2023-24	\$ 26,549,359	\$ 6,347,115	\$ -	\$ 815,101	\$ -	\$ 1,061,974	\$ -	\$ -	\$ 121,750	\$ 34,895,299
LP 8	2024-25	\$ 27,319,975	\$ 6,347,115	\$ -	\$ 839,554	\$ -	\$ 1,092,799	\$ -	\$ -	\$ 121,750	\$ 35,721,193
LP 9	2025-26	\$ 27,853,096	\$ 5,576,499	\$ -	\$ 799,962	\$ -	\$ 1,114,124	\$ -	\$ -	\$ 615,740	\$ 35,959,421
LP 10	2026-27	\$ 27,773,029	\$ 5,043,378	\$ -	\$ 761,044	\$ -	\$ 1,110,921	\$ -	\$ -	\$ 534,238	\$ 35,222,610
VP 1	2027-28	\$ 27,747,146	\$ 5,123,445	\$ -	\$ 766,155	\$ -	\$ 1,109,886	\$ -	\$ -	\$ 540,039	\$ 35,286,671
VP 2	2028-29	\$ 27,722,039	\$ 5,149,328	\$ -	\$ 767,190	\$ -	\$ 1,108,881	\$ -	\$ -	\$ 540,133	\$ 35,287,571
VP 3	2029-30	\$ 27,697,685	\$ 5,174,435	\$ -	\$ 768,194	\$ -	\$ 1,107,907	\$ -	\$ -	\$ 540,224	\$ 35,288,445
VP 4	2030-31	\$ 38,012,886	\$ 5,198,789	\$ -	\$ 1,055,684	\$ -	\$ 1,520,516	\$ -	\$ -	\$ 1,785,465	\$ 47,573,340
VP 5	2031-32	\$ -	\$ 838,665	\$ -	\$ 204,783	\$ -	\$ 899,783	\$ -	\$ -	\$ 77,500	\$ 2,020,730



**Table 4 - "Baseline Revenue Model" Less "Value Limitation Model"**

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Tier II	Recapture at the \$514,000 Level	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture at the \$319,500 Level	Other State Aid	Total General Fund
QTP 1	2015-16	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
QTP 2	2016-17	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
LP 1	2017-18	\$ (834,900)	\$ -	\$ -	\$ (31,825)	\$ -	\$ (33,398)	\$ -	\$ -	\$ -	\$ (900,123)
LP 2	2018-19	\$ (800,853)	\$ 834,900	\$ -	\$ 41,601	\$ -	\$ (32,034)	\$ -	\$ -	\$ -	\$ 43,614
LP 3	2019-20	\$ (767,827)	\$ 800,853	\$ -	\$ 50,696	\$ -	\$ (30,714)	\$ -	\$ -	\$ 208	\$ 53,216
LP 4	2020-21	\$ (735,793)	\$ -	\$ -	\$ 19,899	\$ 564,816	\$ (29,433)	\$ -	\$ -	\$ -	\$ (180,511)
LP 5	2021-22	\$ (704,719)	\$ 735,792	\$ -	\$ 29,284	\$ -	\$ (28,189)	\$ -	\$ -	\$ -	\$ 32,168
LP 6	2022-23	\$ (674,577)	\$ 704,689	\$ -	\$ 28,187	\$ -	\$ (26,984)	\$ -	\$ -	\$ -	\$ 31,315
LP 7	2023-24	\$ (645,340)	\$ 674,577	\$ -	\$ 26,983	\$ -	\$ (25,814)	\$ -	\$ -	\$ -	\$ 30,406
LP 8	2024-25	\$ (616,980)	\$ 645,340	\$ -	\$ 28,561	\$ -	\$ (24,680)	\$ -	\$ -	\$ -	\$ 32,241
LP 9	2025-26	\$ -	\$ 616,979	\$ -	\$ 42,263	\$ -	\$ -	\$ -	\$ -	\$ 81,734	\$ 740,976
LP 10	2026-27	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
VP 1	2027-28	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
VP 2	2028-29	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
VP 3	2029-30	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
VP 4	2030-31	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
VP 5	2031-32	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

**Table 5 - Estimated Financial Impact of the Air Liquide Large Industries U.S. LP Property Value Limitation Request Submitted to Port Neches-Groves ISD at \$1.04 M&O Rate**

Year of Agreement	School Year	Project Value	Estimated Taxable Value	Value Savings	Assumed M&O Tax Rate	Taxes Before Value Limit	Taxes after Value Limit	Tax Savings @ Projected M&O Rate	School District Revenue	Estimated Net Tax Benefits	School District Tax Benefit \$100	Company Tax Benefit
QTP 1	2015-16	\$ 256,300	\$ 256,300	\$ -	\$ 1.04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
QTP 2	2016-17	\$ 100,182,000	\$ 100,182,000	\$ -	\$ 1.04	\$ 1,041,893	\$ 1,041,893	\$ -	\$ -	\$ -	\$ -	\$ -
LP 1	2017-18	\$ 113,490,000	\$ 30,000,000	\$ 83,490,000	\$ 1.04	\$ 1,180,296	\$ 312,000	\$ 868,296	\$ (900,123)	\$ (31,827)	\$ -	\$ (31,827)
LP 2	2018-19	\$ 110,085,300	\$ 30,000,000	\$ 80,085,300	\$ 1.04	\$ 1,144,887	\$ 312,000	\$ 832,887	\$ -	\$ 832,887	\$ 374,862	\$ 458,025
LP 3	2019-20	\$ 106,782,741	\$ 30,000,000	\$ 76,782,741	\$ 1.04	\$ 1,110,541	\$ 312,000	\$ 798,541	\$ -	\$ 798,541	\$ 361,124	\$ 437,417
LP 4	2020-21	\$ 103,579,259	\$ 30,000,000	\$ 73,579,259	\$ 1.04	\$ 1,077,224	\$ 312,000	\$ 765,224	\$ (180,511)	\$ 584,713	\$ 347,797	\$ 236,916
LP 5	2021-22	\$ 100,471,881	\$ 30,000,000	\$ 70,471,881	\$ 1.04	\$ 1,044,908	\$ 312,000	\$ 732,908	\$ -	\$ 732,908	\$ 334,871	\$ 398,037
LP 6	2022-23	\$ 97,457,725	\$ 30,000,000	\$ 67,457,725	\$ 1.04	\$ 1,013,560	\$ 312,000	\$ 701,560	\$ -	\$ 701,560	\$ 322,332	\$ 379,228
LP 7	2023-24	\$ 94,533,993	\$ 30,000,000	\$ 64,533,993	\$ 1.04	\$ 983,154	\$ 312,000	\$ 671,154	\$ -	\$ 671,154	\$ 310,169	\$ 360,985
LP 8	2024-25	\$ 91,697,973	\$ 30,000,000	\$ 61,697,973	\$ 1.04	\$ 953,659	\$ 312,000	\$ 641,659	\$ -	\$ 641,659	\$ 298,371	\$ 343,288
LP 9	2025-26	\$ 88,947,033	\$ 30,000,000	\$ 58,947,033	\$ 1.04	\$ 925,049	\$ 312,000	\$ 613,049	\$ -	\$ 613,049	\$ 286,371	\$ 331,288
LP 10	2026-27	\$ 86,278,623	\$ 30,000,000	\$ 56,278,623	\$ 1.04	\$ 897,298	\$ 312,000	\$ 585,298	\$ -	\$ 585,298	\$ 274,371	\$ 319,288
VP 1	2027-28	\$ 83,690,264	\$ 30,000,000	\$ 53,690,264	\$ 1.04	\$ 870,379	\$ 312,000	\$ 558,379	\$ -	\$ 558,379	\$ 262,371	\$ 307,288
VP 2	2028-29	\$ 81,179,556	\$ 30,000,000	\$ 51,179,556	\$ 1.04	\$ 844,267	\$ 312,000	\$ 532,267	\$ -	\$ 532,267	\$ 250,371	\$ 295,288
VP 3	2029-30	\$ 78,744,169	\$ 30,000,000	\$ 48,744,169	\$ 1.04	\$ 818,939	\$ 312,000	\$ 506,939	\$ -	\$ 506,939	\$ 238,371	\$ 283,288
VP 4	2030-31	\$ 76,381,844	\$ 30,000,000	\$ 46,381,844	\$ 1.04	\$ 794,371	\$ 312,000	\$ 482,371	\$ -	\$ 482,371	\$ 226,371	\$ 271,288
VP 5	2031-32	\$ 74,090,388	\$ 30,000,000	\$ 44,090,388	\$ 1.04	\$ 770,540	\$ 312,000	\$ 458,540	\$ -	\$ 458,540	\$ 214,371	\$ 259,288
						\$ 15,470,965	\$ 9,458,736	\$ 6,012,228	\$ (1,080,634)	\$ 4,931,594	\$ 2,349,526	\$ 2,582,068

QTP = Qualifying Time Period  
LP = Limitation Period  
VP = Continue to Maintain Viable Presence

\*Note: School District Revenue-Loss estimates are subject to change based on various factors, including Legislative and Texas Education Agency administrative changes to school finance formulas, year-to-year project appraisal values, and changes in school district tax rates and enrollment. One of the most substantial changes to the school finance formulas related to Chapter 313 revenue-loss projections could be the treatment of Additional State Aid for Tax Reduction (ASATR). Legislative intent is to end ASATR in 2017-18 school year. Additional information on the assumptions used in preparing these estimates is provided in the narrative of this Report.

Findings and Order of the Port Neches-Groves Independent School District  
Board of Trustees under the Texas Economic Development Act on the  
Application Submitted by Air Liquide Large Industries U.S., LP  
(Tax ID 32035542425)  
(Application # 354)

**ATTACHMENT F**  
**Comptroller's 2015 ISD Summary Worksheet**  
**For Port Neches-Groves ISD**



# Taxes

## Property Tax

# SCHOOL AND APPRAISAL DISTRICTS PROPERTY VALUE STUDY 2015 REPORT

## 2015 ISD Summary Worksheet

**123/Jefferson**

**123-908/Port Neches-Groves ISD**

Category	Local Tax Roll Value	2015 WTD Mean Ratio	2015 PTAD Value Estimate	2015 Value Assigned
A. Single-Family Residences	1,132,958,583	N/A	1,132,958,583	1,132,958,583
B. Multi-Family Residences	37,191,820	N/A	37,191,820	37,191,820
C1. Vacant Lots	25,525,847	N/A	25,525,847	25,525,847
C2. Colonia Lots	0	N/A	0	0
D1. Rural Real(Taxable)	35,930	N/A	35,930	35,930
D2. Real Prop Farm & Ranch	377,890	N/A	377,890	377,890
E. Real Prop Non Qual Acres	20,848,000	N/A	20,848,000	20,848,000

F1. Commercial Real	88,613,269	N/A	88,613,269	88,613,269
F2. Industrial Real	1,562,035,117	N/A	1,562,035,117	1,562,035,117
G. Oil, Gas, Minerals	0	N/A	0	0
J. Utilities	47,457,530	N/A	47,457,530	47,457,530
L1. Commercial Personal	66,564,249	N/A	66,564,249	66,564,249
L2. Industrial Personal	305,045,600	N/A	305,045,600	305,045,600
M. Other Personal	306,110	N/A	306,110	306,110
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	1,217,260	N/A	1,217,260	1,217,260
S. Special Inventory	2,761,200	N/A	2,761,200	2,761,200
Subtotal	3,290,938,405		3,290,938,405	3,290,938,405
Less Total Deductions	810,136,796		810,136,796	810,136,796
Total Taxable Value	2,480,801,609		2,480,801,609	2,480,801,609 T2

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302 (J) AND (K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation (M&O) tax purposes and for interest and sinking fund (I&S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

## Value Taxable For M&O Purposes

T1	T2	T3	T4
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2,551,206,513	2,480,801,609	2,458,061,371	2,387,656,467
---------------	---------------	---------------	---------------

<b>Loss To the Additional \$10,000 Homestead Exemption</b>	<b>50% of the loss to the Local Optional Percentage Homestead Exemption</b>
70,404,904	93,145,142

T1 = School district taxable value for M&O purposes before the loss to the additional \$10,000 homestead exemption

T2 = School district taxable value for M&O purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T3 = T1 minus 50% of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50% of the loss to the local optional percentage homestead exemption

## Value Taxable For I&S Purposes

<b>T7</b>	<b>T8</b>	<b>T9</b>	<b>T10</b>
2,881,683,953	2,811,279,049	2,788,538,811	2,718,133,907

T7 = School district taxable value for I&S purposes before the loss to the additional \$10,000 homestead exemption

T8 = School district taxable value for I&S purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T9 = T7 minus 50% of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50% of the loss to the local optional percentage homestead exemption

The PVS found your local value to be valid, and local value was certified

Findings and Order of the Port Neches-Groves Independent School District  
Board of Trustees under the Texas Economic Development Act on the  
Application Submitted by Air Liquide Large Industries U.S., LP  
(Tax ID 32035542425)  
(Application # 354)

**ATTACHMENT G**  
**Proposed Agreement Between**  
**Port Neches-Groves ISD and**  
**Air Liquide Large Industries U.S., LP**



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O. Box 13528 • Austin, TX 78711-3528

December 9, 2016

AMENDED AGREEMENT

Dr. Rodney Cavness  
Superintendent  
Port Neches-Groves Independent School District  
620 Avenue C  
Port Neches, Texas 77651

Re: Amendment Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes by and between Port Neches-Groves Independent School District and Air Liquide Large Industries U.S., LP, Application 354

Dear Superintendent Cavness:

This office has been provided with the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes by and between Port Neches-Groves Independent School District and Air Liquide Large Industries U.S., LP (Agreement). As requested, the Agreement has been reviewed pursuant to 34 TAC 9.1055(e)(1).

Based on our review, this office concludes that it complies with the provisions of Tax Code, Chapter 313 and 34 TAC Chapter 9, Subchapter F.

Should you have any questions, please contact Michelle Luera with our office. She can be reached by email at [michelle.luera@cpa.texas.gov](mailto:michelle.luera@cpa.texas.gov) or by phone at 1-800-531-5441, ext. 3-6053, or at 512-463-6053.

Sincerely,

A handwritten signature in black ink, reading "Will Counihan", is positioned above the printed name and title.

Will Counihan  
Director  
Data Analysis & Transparency Division

cc: Sara Leon, Powell and Leon, LLP  
Hugh Spinks, Air Liquide Large Industries U.S., LP  
Renn Neilson, Baker Botts LLP

**AMENDED AND RESTATED AGREEMENT FOR LIMITATION  
ON APPRAISED VALUE  
OF PROPERTY FOR SCHOOL DISTRICT  
MAINTENANCE AND OPERATIONS TAXES**

---

by and between

**PORT NECHES-GROVES INDEPENDENT SCHOOL DISTRICT**

and

**AIR LIQUIDE LARGE INDUSTRIES U.S., LP**

*(Texas Taxpayer ID # 32035542425)*

---

TEXAS COMPTROLLER APPLICATION NUMBER 354

Dated

December 12, 2016



**AMENDED AND RESTATED AGREEMENT FOR LIMITATION ON APPRAISED  
VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND  
OPERATIONS TAXES**

*STATE OF TEXAS* §

*COUNTY OF JEFFERSON* §

THIS AMENDED AND RESTATED AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this “Agreement,” is executed and delivered by and between the **PORT NECHES-GROVES INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as the “District,” a lawfully created independent school district within the State of Texas operating under and subject to the Texas Education Code, and **AIR LIQUIDE LARGE INDUSTRIES, U.S., LP**, a Delaware limited liability company (Texas Taxpayer Identification Number 32035542425), hereinafter referred to as the “Applicant.” The Applicant and the District are each hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.” Certain capitalized and other terms used in this Agreement shall have the meanings ascribed to them in Section 1.3.

**RECITALS**

**WHEREAS**, on November 11, 2013, the Superintendent of Schools of the Port Neches-Groves Independent School District (the “Superintendent”), acting as agent of the Board of Trustees of the District (the “Board of Trustees”), received from the Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code; and,

**WHEREAS**, on November 11, 2013, the Board of Trustees authorized the Superintendent to accept, on behalf of the District, the Application from Air Liquide Large Industries U.S., LP, and on November 11, 2013, the Superintendent acknowledged receipt of the completed Application, and the requisite application fee on behalf of the Superintendent, pursuant to Texas Tax Code §313.025(a)(1) and Local District Policy CCG (Local), and determined the Application to be complete; and,

**WHEREAS**, the Application was delivered to the office of the Texas Comptroller of Public Accounts (hereinafter referred to as “Comptroller”) for review pursuant to Texas Tax Code § 313.025(d); and,

**WHEREAS**, the Comptroller established December 11, 2013 as the completed Application date; and,

**WHEREAS**, pursuant to 34 Texas Administrative Code § 9.1054, the Application was delivered for review to the Appraisal District established in Jefferson County, Texas (the “Appraisal District”), pursuant to Texas Tax Code § 6.01; and,

**WHEREAS**, the Comptroller, pursuant to Texas Tax Code § 313.025(d), reviewed and on January 27, 2014, via letter, recommended that the Application be approved; and,

**WHEREAS**, the Comptroller conducted an economic impact evaluation pursuant to Chapter 313 of the Texas Tax Code which was presented to the Board of Trustees at the May 12, 2014 public hearing held in connection with the Board of Trustees’ consideration of the Application; and,

**WHEREAS**, the Board of Trustees carefully reviewed the economic impact evaluation pursuant to Texas Tax Code § 313.026 and carefully considered the Comptroller’s positive recommendation for the project; and,

**WHEREAS**, on May 12, 2014, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District; and,

**WHEREAS**, on May 12, 2014, the Board of Trustees made factual findings pursuant to Texas Tax Code § 313.025(f), including, but not limited to findings that: (i) the information in the Application is true and correct; (ii) this Agreement is in the best interest of the District and the State of Texas; (iii) the Applicant is eligible for the Limitation on Appraised Value of the Applicant’s Qualified Property; (iv) each criterion referenced in Texas Tax Code §313.025(e) has been met; and,

**WHEREAS**, the Port Neches-Groves Independent School District qualifies as a rural school district under the provisions of Texas Tax Code § 313.051(a)(2); and,

**WHEREAS**, on May 12, 2014, the Board of Trustees determined that the Tax Limitation Amount requested by the Applicant, and as defined in Sections 1.2 and 1.3, below, is consistent with the minimum values set out by Texas Tax Code, §313.052, as such Tax Limitation Amount was computed as of the date of this Agreement; and,

**WHEREAS**, the District received written notification, pursuant to 34 Texas Administrative Code § 9.1055(e)(2)(A), that the Comptroller reviewed this Agreement, and reaffirmed the recommendation previously made on January 27, 2014 that the Application be approved; and,

**WHEREAS**, on May 12, 2014, the Board of Trustees approved the form of this Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, and authorized the President and Secretary of the Board of Trustees to execute and deliver such Agreement to the Applicant; and,

**WHEREAS**, on October 10, 2016, the District received from Applicant a request to amend the Application and the Agreement to change the qualifying jobs wage requirement; and,

**WHEREAS**, Section 8.3 of the Agreement permits the Agreement to be amended by a written instrument signed by both parties; and,

**WHEREAS**, on December 12, 2016, the Board of Trustees approved the form of this Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, as amended, and authorized the President and Secretary of the Board of Trustees to execute and deliver such Agreement to the Applicant;

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements herein contained, the Parties agree as follows:

## **ARTICLE I**

### **AUTHORITY, TERM, DEFINITIONS, AND GENERAL PROVISIONS**

#### **Section 1.1. AUTHORITY**

This Agreement is executed by the District as its written agreement with the Applicant pursuant to the provisions and authority granted to the District in Texas Tax Code § 313.027.

#### **Section 1.2. TERM OF THE AGREEMENT**

This Agreement shall commence and first become effective on the Commencement Date, as defined in Section 1.3, below. In the event that the Applicant makes a Qualified Investment in the amount defined in Section 2.6 below, between the Commencement Date and the end of the Qualifying Time Period, the Applicant will be entitled to the Tax Limitation Amount defined in Section 1.3 below, for the following Tax Years: 2017, 2018, 2019, 2020, 2021, 2022, 2023 and 2024. The limitation on the local ad valorem property values for Maintenance and Operations purposes shall commence with the property valuations made as of January 1, 2017, the appraisal date for the third full Tax Year following the Commencement Date.

The period beginning with the Commencement Date of May 12, 2014 and ending on December 31, 2016 will be referred to herein as the “Qualifying Time Period,” as that term is defined in Texas Tax Code § 313.021(4). The Applicant shall not be entitled to a tax limitation during the Qualifying Time Period.

Unless sooner terminated as provided herein, the limitation on the local ad valorem property values shall terminate on December 31, 2024. Except as otherwise provided herein, this Agreement will terminate, in full, on the Final Termination Date. The termination of this Agreement shall not (i) release any obligations, liabilities, rights and remedies arising out of any breach of, or failure to comply with, this Agreement occurring prior to such termination, or (ii) affect the right of a Party to enforce the payment of any amount to which such Party was entitled

before such termination or to which such Party became entitled as a result of an event that occurred before such termination, so long as the right to such payment survives said termination.

Except as otherwise provided herein, the Tax Years for which this Agreement is effective are as set forth below and set forth opposite each such Tax Year are the corresponding year in the term of this Agreement, the date of the Appraised Value determination for such Tax Year, and a summary description of certain provisions of this Agreement corresponding to such Tax Year (it being understood and agreed that such summary descriptions are for reference purposes only, and shall not affect in any way the meaning or interpretation of this Agreement):

<b>Full Tax Year of Agreement</b>	<b>Date of Appraisal</b>	<b>School Year</b>	<b>Tax Year</b>	<b>Summary Description of Provisions</b>
Partial Year (Commencing May 12, 2014)	January 1, 2014	2014-15	2014	Start of Qualifying Time Period beginning on May 12, 2014 Commencement Date. No limitation on value. First year for computation of Annual Limit.
1	January 1, 2015	2015-16	2015	Qualifying Time Period. No limitation on value. Possible tax credit in future years.
2	January 1, 2016	2016-17	2016	Qualifying Time Period. No limitation on value. Possible tax credit in future years.
3	January 1, 2017	2017-18	2017	\$ 30 million property value limitation.
4	January 1, 2018	2018-19	2018	\$ 30 million property value limitation. Possible tax credit due to Applicant.
5	January 1, 2019	2019-20	2019	\$ 30 million property value limitation. Possible tax credit due to Applicant.
6	January 1, 2020	2020-21	2020	\$ 30 million property value limitation. Possible tax credit due to Applicant.

**Amended and Restated Agreement for Limitation on Appraised Value**

Between Port Neches-Groves Independent School District and Air Liquide Large Industries U.S., LP

TEXAS COMPTROLLER APPLICATION NUMBER 354

December 12, 2016

Page 5

7	January 1, 2021	2021-22	2021	\$ 30 million property value limitation. Possible tax credit due to Applicant.
8	January 1, 2022	2022-23	2022	\$ 30 million property value limitation. Possible tax credit due to Applicant.
9	January 1, 2023	2023-24	2023	\$ 30 million property value limitation. Possible tax credit due to Applicant.
10	January 1, 2024	2024-25	2024	\$ 30 million property value limitation. Possible tax credit due to Applicant.
11	January 1, 2025	2025-26	2025	No tax limitation. Possible tax credit due to Applicant. Applicant obligated to Maintain Viable Presence if no early termination.
12	January 1, 2026	2026-27	2026	No tax limitation. Possible tax credit due to Applicant. Applicant obligated to Maintain Viable Presence if no early termination.
13	January 1, 2027	2027-28	2027	No tax limitation. Possible tax credit due to Applicant. Applicant obligated to Maintain Viable Presence if no early termination.

### **Section 1.3. DEFINITIONS**

Wherever used herein, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning, to-wit:

“Act” means the Texas Economic Development Act set forth in Chapter 313 of the Texas Tax Code, as amended.

“Affiliate” means any entity that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Applicant. For purposes of this definition, control of an entity means (i) the ownership, directly or indirectly, of fifty (50) percent or more of the voting rights in a company or other legal entity or (ii) the right to direct the management or operation of such entity whether by ownership (directly or indirectly) of securities, by contract or otherwise.

“Affiliated Group” means a group of one or more entities in which a controlling interest is owned by a common owner or owners, either corporate or non-corporate, or by one or more of the member entities.

“Aggregate Limit” means, for any Tax Year of this Agreement, the cumulative total of the Annual Limit amount for such Tax Year and all previous years of the Agreement, less all amounts paid by the Applicant to or on behalf of the District under Article IV, below.

“Agreement” means this Agreement, as the same may be modified, amended, restated, amended and restated, or supplemented from time to time in accordance with Section 6.3.

“Annual Limit” means the maximum annual benefit which can be paid directly to the District as a Supplemental Payment under the provisions of Texas Tax Code § 313.027(i). For purposes of this Agreement, the amount of the Annual Limit shall be calculated for each year by multiplying the District’s Average Daily Attendance for the applicable school year, as calculated pursuant to Texas Education Code § 42.005 times the greater of \$100, or any larger amount in Texas Tax Code § 313.027(i), if such limit amount is increased for any future year of this Agreement. The Annual Limit shall first be computed for tax year 2014, which, by virtue of the Commencement Date is the first year of the Qualifying Time Period under this Agreement.

“Applicant” means Air Liquide Large Industries U.S., LP, (*Texas Taxpayer ID #32035542425*), the company listed in the Preamble of this Agreement who, on November 11, 2013, filed with the District the Original Application for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The term “Applicant” shall also include the Applicants’ assigns and successors-in-interest and their direct and indirect subsidiaries.

“Applicable School Finance Law” means Chapters 41 and 42 of the Texas Education Code, the Texas Economic Development Act (Chapter 313 of the Texas Tax Code), Chapter 403, Subchapter M, of the Texas Government Code applicable to the District, and the Constitution and general laws of the State applicable to the independent school districts of the State, including specifically, the applicable rules and regulations of the agencies of the State having jurisdiction over any matters relating to the public school systems and school districts of the State, and judicial decisions construing or interpreting any of the above. The term also includes any amendments or successor statutes that may be adopted in the future that could impact or alter the calculation of the Applicant’s ad valorem tax obligation to the District, either with or without the limitation of property values made pursuant to this Agreement.

“Application” means the Original Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter B or C, of the Texas Tax Code) filed with the District by the Applicant on November 11, 2013, which has been certified by the Comptroller to collectively constitute a complete final Application as of the date of December 11, 2013. The term includes all forms required by the Comptroller, the schedules attached thereto, and all other documentation submitted by the Applicant for the purpose of obtaining an Agreement with the District. The term also includes all amendments and supplements thereto submitted by the Applicant, including the October 10, 2016 amended Application.

“Appraised Value” shall have the meaning assigned to such term in Section 1.04(8) of the Texas Tax Code.

“Appraisal District” means the Jefferson County Appraisal District.

“Board of Trustees” means the Board of Trustees of the Port Neches-Groves Independent School District.

“Commencement Date” means May 12, 2014, the date upon which this Agreement was approved by the District’s Board of Trustees.

“Comptroller” means the Texas Comptroller of Public Accounts, or the designated representative of the Texas Comptroller of Public Accounts acting on behalf of the Comptroller.

“Comptroller’s Rules” means the applicable rules and regulations of the Comptroller set forth at Title 34 Texas Administrative Code, Chapter 9, Subchapter D, together with any court or administrative decisions interpreting same.

“County” means Jefferson County, Texas.

“Determination of Breach” shall have the meaning assigned to such term in Section 7.8 of the Agreement.

“District” or “School District” means the Port Neches-Groves Independent School District, being a duly authorized and operating independent school district in the State, having the power to levy, assess, and collect ad valorem taxes within its boundaries and to which Subchapter C of the Act applies. The term also includes any successor independent school district or other successor governmental authority having the power to levy and collect ad valorem taxes for school purposes on the Applicant’s Qualified Property or the Applicant’s Qualified Investment.

“Final Termination Date” means December 31, 2027. However, any payment obligations of any Party arising under this Agreement prior to the Final Termination Date will survive until paid by the Party owing same.

“Force Majeure” means a failure caused by (a) provisions of law, or the operation or effect of rules, regulations or orders promulgated by any governmental authority having jurisdiction over the Applicant, the Applicant’s Qualified Property or the Applicant’s Qualified Investment or any

upstream, intermediate or downstream equipment or support facilities as are necessary to the operation of the Applicant's Qualified Property or the Applicant's Qualified Investment; (b) any demand or requisition, arrest, order, request, directive, restraint or requirement of any government or governmental agency whether federal, state, military, local or otherwise; (c) the action, judgment or decree of any court; (d) floods, storms, hurricanes, evacuation due to threats of hurricanes, lightning, earthquakes, washouts, high water, fires, acts of God or public enemies, wars (declared or undeclared), blockades, epidemics, riots or civil disturbances, insurrections, strikes, labor disputes (it being understood that nothing contained in this Agreement shall require the Applicant to settle any such strike or labor dispute), explosions, breakdown or failure of plant, machinery, equipment, lines of pipe or electric power lines (or unplanned or forced outages or shutdowns of the foregoing for inspections, repairs or maintenance), inability to obtain, renew or extend franchises, licenses or permits, loss, interruption, curtailment or failure to obtain electricity, gas, steam, water, wastewater disposal, waste disposal or other utilities or utility services, inability to obtain or failure of suppliers to deliver equipment, parts or material, or inability of the Applicant to ship or failure of carriers to transport electricity from the Applicant's facilities; or (e) any other cause (except financial), whether similar or dissimilar, over which the Applicant has no reasonable control and which forbids or prevents performance.

"Land" shall have the meaning assigned to such term in Section 2.2.

"Maintain Viable Presence" means, after the development and construction of the project described in the Application and in the description of the Applicant's Qualified Investment and Qualified Property as set forth in Section 2.3, below, (i) the operation over the term of this Agreement of the facility or facilities for which the tax limitation is granted, as the same may from time to time be expanded, upgraded, improved, modified, changed, remodeled, repaired, restored, reconstructed, reconfigured, and/or reengineered; (ii) the maintenance of at least the number of New Jobs required by Chapter 313 of the Texas Tax Code from the time they are created until the Final Termination Date; and (iii) the maintenance of at least the number of Qualifying Jobs set forth in the Application from the time they are created until the Final Termination Date.

"M&O Amount" shall have the meaning assigned to such term in Section 3.2 of the Agreement.

"Maintenance and Operations Revenue" or "M&O Revenue" means (i) those revenues which the District receives from the levy of its annual ad valorem maintenance and operations tax pursuant to Texas Education Code § 45.002 and Article VII § 3 of the Texas Constitution, plus (ii) all State revenues to which the District is or may be entitled under Chapter 42 of the Texas Education Code or any other statutory provision as well as any amendment or successor statute to these provisions, plus (iii) any indemnity payments received by the District under other agreements similar to this Agreement to the extent that such payments are designed to replace District M&O Revenue lost as a result of such similar agreements, less (iv) any amounts necessary to reimburse the State of Texas or another school district for the education of additional students pursuant to Chapter 41 of the Texas Education Code.



“Market Value” shall have the meaning assigned to such term in Section 1.04(7) of the Texas Tax Code.

“Net Tax Benefit” means, (i) the amount of maintenance and operations ad valorem taxes which the Applicant would have paid to the District for all Tax Years if this Agreement had not been entered into by the Parties, (ii) adding to the amount determined under clause (i) all Tax Credits received by the Applicant under Chapter 313, Texas Tax Code, and (iii) subtracting from the sum of the amounts determined under clauses (i) and (ii) the sum of (A) all maintenance and operations ad valorem school taxes actually due to the District or any other governmental entity, including the State of Texas, for all Tax Years of this Agreement, plus (B) any payments due to the District under Article III under this Agreement.

“New Jobs” means the total number of jobs, defined by 34 Texas Administrative Code § 9.1051, which the Applicant will create in connection with the project which is the subject of its Application. In accordance with the requirements of Texas Tax Code § 313.024(d), Eighty Percent (80%), of all New Jobs created by the Applicant on the project shall also be Qualifying Jobs, as defined below.

“Qualified Investment” has the meaning set forth in Chapter 313 of the Texas Tax Code, as interpreted by the Comptroller’s Rules, as these provisions existed on the date of this Agreement, applying any specific requirements for rural school districts imposed by Subchapter C of Chapter 313 of the Texas Tax Code and by the Comptroller’s Rules.

“Qualifying Jobs” means the number of New Jobs the Applicant will create in connection with the project which is the subject of its Application, which meet the requirements of Texas Tax Code §313.021(3).

“Qualified Property” has the meaning set forth in Chapter 313 of the Texas Tax Code, as interpreted by the Comptroller’s Rules and the Texas Attorney General, as these provisions existed on the date of this Agreement, applying any specific requirements for rural school districts imposed by Subchapter C of Chapter 313 of the Texas Tax Code and by the Comptroller’s Rules.

“Qualifying Time Period” means the period that begins on the Commencement Date of May 12, 2014 and ends on December 31, 2016.

“Revenue Protection Amount” means the amount calculated pursuant to Section 3.2 of this Agreement.

“State” means the State of Texas.

“Substantive Document” means a document or other information or data in electronic media determined by the Comptroller to substantially involve or include information or data significant to an application, the evaluation or consideration of an application, or the agreement or implementation of an agreement for limitation of appraised value pursuant to Chapter 313 of the Texas Tax Code. The term includes, but is not limited to, any application requesting a limitation

on appraised value and any amendments or supplements, any economic impact evaluation made in connection with an application, any agreement between the Applicant and the District and any subsequent amendments or assignments, any school district written finding or report filed with the comptroller as required under this subchapter, and any application requesting school tax credits under Texas Tax Code, § 313.103.

“Tax Credit” means the tax credit, either to be paid by the District to the Applicant, or to be applied against any taxes that the District imposes on Qualified Property, as computed under the provisions of Subchapter D of the Act, and rules adopted by the Comptroller and/or the Texas Education Agency, provided that the Applicant complies with the requirements under such provisions, including the timely filing of a completed application under Texas Tax Code § 313.103 and the duly adopted administrative rules.

“Tax Limitation Amount” means the maximum amount which may be placed as the Appraised Value on Qualified Property/Qualified Investment for years three (3) through ten (10) of this Agreement pursuant to Texas Tax Code § 313.054. That is, for each of the eight (8) Tax Years 2017, 2018, 2019, 2020, 2021, 2022, 2023 and 2024, the Appraised Value of the Applicant’s Qualified Investment for the District’s maintenance and operations ad valorem tax purposes shall not exceed, and the Tax Limitation Amount shall be, the lesser of:

- (a) the Market Value of the Applicant’s Qualified Investment; or
- (b) Thirty Million Dollars (\$30,000,000.00).

This Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the effective date of this Agreement, as set out by Texas Tax Code, § 313.022(b) or § 313.052.

“Tax Year” shall have the meaning assigned to such term in Section 1.04(13) of the Texas Tax Code (*i.e.*, the calendar year).

“Taxable Value” shall have the meaning assigned to such term in Section 1.04(10) of the Texas Tax Code.

“Texas Education Agency Rules” means the applicable rules and regulations adopted by the Texas Commissioner of Education in relation to the administration of Chapter 313 of the Texas Tax Code, which are set forth at Title 19 – Part 2, Texas Administrative Code, together with any court or administrative decisions interpreting same.

## ARTICLE II

### PROPERTY DESCRIPTION

#### **Section 2.1. LOCATION WITHIN A QUALIFIED REINVESTMENT OR ENTERPRISE ZONE**

The Applicant's Qualified Property upon which the Applicant's Qualified Investment will be located is within an area designated as a reinvestment zone under Chapter 312 of the Texas Tax Code. The legal description of the reinvestment zone in which the Applicant's Qualified Property is located is attached to this Agreement as **EXHIBIT 1** and is incorporated herein by reference for all purposes.

#### **Section 2.2. LOCATION OF QUALIFIED PROPERTY**

The location of the Applicant's Qualified Property upon which the Applicant's Qualified Investment will be located is described in the legal description which is attached to this Agreement as **EXHIBIT 2** and is incorporated herein by reference for all purposes. The Parties expressly agree that the boundaries of the Land may not be materially changed from its configuration described in **EXHIBIT 2** without the express authorization of each of the Parties.

#### **Section 2.3. DESCRIPTION OF QUALIFIED INVESTMENT AND QUALIFIED PROPERTY**

The Qualified Investment and/or Qualified Property that is subject to the Tax Limitation Amount is described in **EXHIBIT 3**, which is attached hereto and incorporated herein by reference for all purposes ("Applicant's Qualified Investment"). Qualified Investment shall be that property, described in **EXHIBIT 3** which is placed in service under the terms of the Application, during the Qualifying Time Period described in both Section 1.2, above and the definition of Qualifying Time Period set forth in Section 1.3, above. Qualified Property shall be all property, described in **EXHIBIT 3**, including, but not limited to the Applicant's Qualified Investment, together with the land described in **EXHIBIT 2** which: 1) is owned by the Applicant; 2) was first placed in service after December 11, 2013, the completed Application date established by the Comptroller; and 3) is used in connection with the activities described in the Application. Property which is not specifically described in **EXHIBIT 3** shall not be considered by the District or the Appraisal District to be part of the Applicant's Qualified Investment or Qualified Property for purposes of this Agreement, unless pursuant to Texas Tax Code § 313.027(e) and Section 8.3 of this Agreement, the Board of Trustees, by official action, provides that such other property is a part of the Applicant's Qualified Investment for purposes of this Agreement.

Property owned by the Applicant which is not described on **EXHIBIT 3** may not be considered to be Qualified Property unless the Applicant:

- (a) submits to the District and the Comptroller a written request to add property to the limitation agreement, which request shall include a specific description of the additional property to which the Applicant requests that the limitation apply;

- (b) notifies the District and the Comptroller of any other changes to the information that was provided in the Application approved by the District ; and,
- (c) provides any additional information reasonably requested by the District or the Comptroller necessary to re-evaluate the economic impact analysis for the new or changed conditions.

#### **Section 2.4. APPLICANT'S OBLIGATIONS TO PROVIDE CURRENT INVENTORY OF QUALIFIED PROPERTY**

At the end of the Qualifying Time Period, or at any other time when there is a material change in the Qualified Property located on the land described in **EXHIBIT 2**, upon a reasonable request of the District, the Comptroller, or the Appraisal District, the Applicant shall provide to the District, the Comptroller, and the Appraisal District a specific and detailed description of the tangible personal property, buildings, or permanent, nonremovable building components (including any affixed to or incorporated into real property) on the Qualified Property to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such described property within the boundaries of the real property which is subject to the Agreement.

#### **Section 2.5. QUALIFYING USE**

The Applicant's Qualified Investment described above in Section 2.3 qualifies for a tax limitation agreement under Texas Tax Code § 313.024(b)(1) as a manufacturing facility.

#### **Section 2.6. LIMITATION ON APPRAISED VALUE**

So long as the Applicant makes a Qualified Investment in the amount Thirty Million Dollars (\$30,000,000.00), or greater, during the Qualifying Time Period; and unless this Agreement has been terminated as provided herein before such Tax Year, for each of the eight (8) Tax Years 2017, 2018, 2019, 2020, 2021, 2022, 2023 and 2024, the Appraised Value of the Applicant's Qualified Investment for the District's maintenance and operations ad valorem tax purposes shall not exceed the lesser of:

- (a) The Market Value of the Applicant's Qualified Investment; or
- (b) Thirty Million Dollars (\$30,000,000.00).

This Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the effective date of this Agreement, as set out by Texas Tax Code § 313.022 (b) or § 313.052.

### **ARTICLE III**

#### **PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES**

### **Section 3.1. INTENT OF THE PARTIES**

Subject to the limitations contained in this Agreement (including Section 5.1), it is the intent of the Parties that the District shall, in accordance with the provisions of Texas Tax Code §313.027(f)(1), be compensated by the Applicant for any loss that the District incurs in its Maintenance and Operations Revenue as a result of, or on account of, entering into this Agreement, after taking into account any payments to be made under this Agreement. Such payments shall be independent of, and in addition to, all such other payments as are set forth in Article IV. Subject only to the limitations contained in this Agreement (including Section 5.1), it is the intent of the Parties that the risk of any negative financial consequence to the District in making the decision to enter into this Agreement will be borne by the Applicant and not by the District, and paid by the Applicant to the District in addition to any and all payments due under Article IV.

### **Section 3.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY THE DISTRICT**

Subject to the provisions of Sections 5.1 and 5.2, the amount to be paid by the Applicant to compensate the District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year during the term of this Agreement (the “M&O Amount”) shall be determined in compliance with the Applicable School Finance Law in effect for such year and according to the following formula:

The M&O Amount owed by the Applicant to District means the Original M&O Revenue *minus* the New M&O Revenue;

Where:

- i. “Original M&O Revenue” means the total State and local Maintenance & Operations Revenue that the District would have received for the school year under the Applicable School Finance Law had this Agreement not been entered into by the Parties and the Qualified Property and/or Qualified Investment been subject to the ad valorem maintenance & operations tax at the tax rate actually adopted by the District for the applicable year.
- ii. “New M&O Revenue” means the total State and local Maintenance & Operations Revenue that the District actually received for such school year, after all adjustments have been made to Maintenance and Operations Revenue because of any portion of this agreement.

In making the calculations required by this Section 3.2:

- i. The Taxable Value of property for each school year will be determined under the Applicable School Finance Law.

- ii. For purposes of this calculation, the tax collection rate on the Applicant's Qualified Property and/or the Applicant's Qualified Investment will be presumed to be one hundred percent (100%).
- iii. If, for any year of this Agreement, the difference between the Original M&O Revenue and the New M&O Revenue as calculated under this Section 3.2 results in a negative number, the negative number will be considered to be zero.
- iv. All calculations made for years three (3) through ten (10) of this Agreement under Section 3.2, Subsection ii of this Agreement will reflect the Tax Limitation Amount for such year.
- v. All calculations made under this Section 3.2 shall be made by a methodology which isolates the full M&O revenue impact caused by this Agreement. The Applicant shall not be responsible to reimburse the District for other revenue losses created by other agreements, on account of any other factors not contained in this Agreement.

### **Section 3.3. COMPENSATION FOR LOSS OF OTHER REVENUES**

In addition to the amounts determined pursuant to Section 3.2 above, and to the extent provided in Section 6.3, the Applicant, on an annual basis, shall also indemnify and reimburse the District for the following:

- (a) all non-reimbursed costs incurred by the District in paying or otherwise crediting to the account of the Applicant, any applicable tax credit to which the Applicant may be entitled pursuant to Chapter 313, Subchapter D of the Texas Tax Code, and for which the District does not receive reimbursement from the State pursuant to Texas Education Code § 42.2515, or other similar or successor statute.
- (b) all non-reimbursed costs, certified by the District's external auditor to have been incurred by the District for extraordinary education-related expenses directly related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project.
- (c) any other loss of District revenues which are, or may be attributable to the payment by the Applicant to or on behalf of any other third party beneficiary.

### **Section 3.4. CALCULATIONS TO BE MADE BY THIRD PARTY**

All calculations under this Agreement shall be made annually by an independent third party (the "Third Party") jointly approved each year by the District and the Applicant. If the Parties cannot agree on the Third Party, then the Third Party shall be selected by the mediator provided in Section 7.9 of this Agreement.

### **Section 3.5. DATA USED FOR CALCULATIONS**

The calculations for payments under this Agreement shall be initially based upon the valuations placed upon the Applicant's Qualified Investment and/or the Applicant's Qualified Property by the Appraisal District in its annual certified tax roll submitted to the District pursuant to Texas Tax Code § 26.01 on or about July 25 of each year of this Agreement. Immediately upon receipt of the valuation information by the District, the District shall submit the valuation information to the Third Party selected under Section 3.4. The certified tax roll data shall form the basis of the calculation of any and all amounts due under this Agreement. All other data utilized by the Third Party to make the calculations contemplated by this Agreement shall be based upon the best available current estimates. The data utilized by the Third Party shall be adjusted from time to time by the Third Party to reflect actual amounts, subsequent adjustments by the Appraisal District to the District's certified tax roll or any other changes in student counts, tax collections, or other data.

### **Section 3.6. DELIVERY OF CALCULATIONS**

On or before November 1 of each year for which this Agreement is effective, the Third Party appointed pursuant to Section 3.4 of this Agreement shall forward to the Parties a certification containing the calculations required under Sections 3.2 and/or 3.3 and Article IV, or under Section 5.1 of this Agreement in sufficient detail to allow the Parties to understand the manner in which the calculations were made. The Third Party shall simultaneously submit his, her or its invoice for fees for services rendered to the Parties, if any fees are being claimed. Upon reasonable prior notice, the employees and agents of the Applicant shall have access, at all reasonable times, to the Third Party's offices, personnel, books, records, and correspondence pertaining to the calculation and fee for the purpose of verification. The Third Party shall maintain supporting data consistent with generally accepted accounting practices, and the employees and agents of the Applicant shall have the right to reproduce and retain for purpose of audit, any of these documents. The Third Party shall preserve all documents pertaining to the calculation and fee for a period of five (5) years after payment. The Applicant shall not be liable for any of Third Party's costs resulting from an audit of the Third Party's books, records, correspondence, or work papers pertaining to the calculations contemplated by this Agreement or the fee paid by the Applicant to the Third Party pursuant to Section 3.7, if such fee is timely paid.

### **Section 3.7. PAYMENT BY APPLICANT**

The Applicant shall pay any amount determined to be due and owing to the District under this Agreement on or before the January 31 of the year next following the tax levy for each year



for which this Agreement is effective. By such date, the Applicant shall also pay any amount billed by the Third Party for all calculations under this Agreement under Section 3.6, above, plus any reasonable and necessary legal expenses paid by the District to its attorneys, auditors, or financial consultants for the preparation and filing of any financial reports, disclosures, or tax credit or other reimbursement applications filed with or sent to the State of Texas which are, or may be required under the terms or because of the execution of this Agreement. In no year shall the Applicant be responsible for the payment of any total expenses under this Section and Section 3.6, above, in excess of Ten Thousand Dollars (\$10,000.00).

### **Section 3.8. RESOLUTION OF DISPUTES**

Pursuant to Section 3.4 and Section 3.6, should the Applicant disagree with the certification containing the calculations, the Applicant may appeal the findings, in writing, to the Third Party within thirty (30) days of receipt of the certification. Within thirty (30) days of receipt of the Applicant's appeal, the Third Party will issue, in writing, a final determination of the certification containing the calculations. Thereafter, the Applicant may appeal the final determination of certification containing the calculations to the District. Any appeal by the Applicant of the final determination of the Third Party may be made, in writing, to the District's Board of Trustees within thirty (30) days of the final determination of certification containing the calculations.

### **Section 3.9. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT**

In the event that, at the time the Third Party selected under Section 3.4 makes its calculations under this Agreement, the Applicant has appealed the taxable values placed by the Appraisal District on the Qualified Property, and the appeal of the appraised values are unresolved, the Third Party shall base its calculations upon the values placed upon the Qualified Property by the Appraisal District.

In the event that the result of an appraisal appeal or for any other reason, the Taxable Value of the Applicant's Qualified Investment and/or the Applicant's Qualified Property is changed, once the determination of a new value becomes final, the Parties shall immediately notify the Third Party who shall immediately issue new calculations for the applicable year or years. In the event the new calculations result in the change of any amount payable by the Applicant under this Agreement, the party from whom the adjustment is payable shall remit such amounts to the counter-party within thirty (30) days of the receipt of the new calculations from the Third Party.

### **Section 3.10. EFFECT OF STATUTORY CHANGES**

Notwithstanding any other provision in this Agreement, but subject to the limitations contained in Section 5.1, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by the Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, the District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State, because of its participation in this Agreement, the Applicant shall make payments to the District, up to the revenue protection amount limit set forth

in Section 5.1, that are necessary to offset any negative impact on the District as a result of its participation in this Agreement. Such calculation shall take into account any adjustments to the amount calculated for the current fiscal year that should be made in order to reflect the actual impact on the District.

## **ARTICLE IV**

### **Section 4.1. INTENT OF PARTIES WITH RESPECT TO SUPPLEMENTAL PAYMENTS**

In interpreting the provisions of Article IV, the Parties agree as follows:

(a) **Amounts Exclusive of Indemnity Amounts**

In addition to undertaking the responsibility for the payment of all of the amounts set forth under Article III, and as further consideration for the execution of this Agreement by the District, the Applicant shall also be responsible for the Supplemental Payments set forth in this Article IV. The Applicant shall not be responsible to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on appraised value made pursuant to Chapter 313 of the Texas Tax Code, unless it is explicitly set forth in this Agreement. It is the express intent of the Parties that the obligation for Supplemental Payments under this Article IV are separate and independent of the obligation of the Applicant to pay the amounts described in Article III; provided, however, that all payments under Articles III and IV are subject to the limitations contained in Section 5.1, and that all payments under Article IV are subject to the separate limitations contained in Section 4.4.

(b) **Adherence to Statutory Limits on Supplemental Payments**

It is the express intent of the parties that any Supplemental Payments made to or on behalf of the District by the Applicant, under this Article IV, shall not exceed the limit imposed by the provisions of Texas Tax Code 313.027(i) unless that limit is increased by the Legislature at a future date.

### **Section 4.2. STIPULATED SUPPLEMENTAL PAYMENT AMOUNT - SUBJECT TO AGGREGATE LIMIT**

During the term of this Agreement, the District shall not be entitled to receive Supplemental Payments that exceed the lesser of:

- (a) the Applicant's Stipulated Supplemental Payment Amount, defined as Forty Percent (40%) of the Applicant's Net Tax Benefit, as the term is defined in Section 1.3, above; or,

(b) the Aggregate Limit, as the term is defined in Section 1.3, above.

**Section 4.3. ANNUAL CALCULATION OF STIPULATED SUPPLEMENTAL PAYMENT AMOUNT**

The Parties agree that for each Tax Year of this Agreement, beginning with the third full year (Tax Year 2017), the Stipulated Supplemental Payment amount, described in Section 4.2 will annually be calculated based upon the then most current estimate of tax savings to the Applicant, which will be made, based upon assumptions of student counts, tax collections, and other applicable data, in accordance with the following formula:

Taxable Value of the Applicant's Qualified Property for such Tax Year had this Agreement not been entered into by the Parties (i.e., the Taxable Value of the Applicant's Qualified Property used for the District's interest and sinking fund tax purposes for such Tax Year, or school taxes due to any other governmental entity, including the State of Texas, for such Tax Year);

*Minus,*

The Taxable Value of the Applicant's Qualified Property for such Tax Year after giving effect to this Agreement (i.e., the Taxable Value of the Applicant's Qualified Property used for the District's maintenance and operations tax purposes for such Tax Year, or school taxes due to any other governmental entity, including the State of Texas, for such Tax Year);

*Multiplied by,*

The District's maintenance and operations tax rate for such Tax Year, or the school tax rate of any other governmental entity, including the State of Texas, for such Tax Year;

*Plus,*

Any Tax Credit received by the Applicant with respect to such Tax Year;

*Minus,*

Any amounts previously paid to the District under Article III;

*Multiplied by,*

The number 0.4;

*Minus,*

Any amounts previously paid to the District under Sections 4.2 and 4.3 with respect to such Tax Year.

In the event that there are changes in the data upon which the calculations set forth herein are made, the Third Party described in Section 3.4, above, shall adjust the Stipulated Supplemental Payment amount calculation to reflect any changes in the data.

#### **Section 4.4. CALCULATION OF ANNUAL SUPPLEMENTAL PAYMENTS TO THE DISTRICT AND APPLICATION OF AGGREGATE LIMIT**

For each year of this Agreement, beginning with year three (Tax Year 2017) and continuing thereafter through year thirteen (Tax Year 2027), the District, or its Successor Beneficiary should one be designated under Section 4.6, below, shall not be entitled to receive Supplemental Payments, computed under Sections 4.2 and 4.3, above, that exceed the Aggregate Limit, defined in Section 1.3, above.

If, for any year of this Agreement, the payment of the Applicant's Stipulated Supplemental Payment amount, calculated under sections 4.2 and 4.3, above, exceeds the Aggregate Limit for that year, the difference between the Stipulated Supplemental Payment amount and the Aggregate Limit, shall be carried forward from year-to-year into subsequent years of this Agreement, and to the extent not limited by the Aggregate Limit in any subsequent year of this Agreement, shall be paid to the District.

Any Stipulated Supplemental Payment amount, which cannot be made to the District prior to the end of year thirteen (Tax Year 2027), because such payment would exceed the Aggregate Limit, will be deemed to have been cancelled by operation of law.

#### **Section 4.5. PROCEDURES FOR SUPPLEMENTAL PAYMENT CALCULATIONS**

- (a) All calculations required by this Article, including but not limited to: (i) the calculation of the Stipulated Supplemental Payment amount; (ii) the determination of both the Annual Limit and the Aggregate Limit; (iii) the effect, if any, of the Aggregate Limit upon the actual amount of Supplemental Payments eligible to be paid to the District by the Applicant; and, (iv) the carry forward and accumulation of any Stipulated Supplemental Payment amounts unpaid by the Applicant due to the Aggregate Limit in previous years, shall be calculated by the Third Party selected pursuant to Section 3.4.
- (b) The calculations made by the Third Party shall be made at the same time and on the same schedule as the calculations made pursuant to Section 3.6.
- (c) The payment of all amounts due under this Article shall be made at the time set forth in Section 3.7.

#### **Section 4.6. DISTRICT'S OPTION TO DESIGNATE SUCCESSOR BENEFICIARY**

At any time during this Agreement, the District's Board of Trustees may, in its sole discretion, so long as such decision does not result in additional costs to the Applicant under this

Agreement, direct that the Applicant's payment obligations under this Article IV be made to its educational foundation, or to a similar entity. The alternative entity may only use such funds received under this Article to support the educational mission of the District and its students. Any designation of an alternative entity must be made by recorded vote of the District's Board of Trustees at a properly posted public Board meeting. Any such designation will become effective after public vote and the delivery of notice of said vote to the Applicant in conformance with the provisions of Section 6.1, below. Such designation may be rescinded by the District's Board of Trustees, by Board action, at any time.

Any designation of a successor beneficiary under this Section shall not alter the Aggregate Limitation on Supplemental payments described in Section 4.4, above.

## **ARTICLE V**

### **ANNUAL LIMITATION OF PAYMENTS BY APPLICANT**

#### **Section 5.1. ANNUAL LIMITATION AFTER FIRST THREE YEARS**

Notwithstanding anything contained in this Agreement to the contrary, and with respect to each Tax Year during the term of this Agreement beginning after the end of the 2017 Tax Year, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid or due to be paid by the Applicant to the District for the current Tax Year together with the taxes due or paid for prior Tax Years of the Agreement, plus the sum of all payments otherwise due from the Applicant to the District under Articles III and IV with respect to such current and all preceding tax years, exceed (ii) the amount of the maintenance and operations ad valorem taxes that the Applicant would have paid to the District for such current and all preceding tax years (determined by using the District's actual maintenance and operations tax rate for each applicable tax year) if the Parties had not entered into this Agreement. The calculation and comparison of the amounts described in clauses (i) and (ii) of the preceding sentence shall be included in all calculations made pursuant to Section 3.4, and in the event the sum of the amounts described in said clause (i) exceeds the amount described in said clause (ii), then the payments otherwise due from the Applicant to the District under Articles III and IV shall be reduced until such excess is eliminated.

#### **Section 5.2. OPTION TO CANCEL AGREEMENT**

In the event that any payment otherwise due from the Applicant to the District under Article III and/or Section 4.2 with respect to a Tax Year is subject to reduction in accordance with the provisions of Section 5.1 above, then the Applicant shall have the option to terminate this Agreement. The Applicant may exercise such option to cancel this Agreement by notifying the District of its election in writing not later than the July 31 of the year next following the Tax Year with respect to which a reduction under Section 5.1 is applicable. Any cancellation of this Agreement under the foregoing provisions of this Section 5.2 shall be effective immediately prior to the second Tax Year next following the Tax Year in which the reduction giving rise to the option occurred. Upon such termination this Agreement shall terminate and be of no further force or effect; provided, however, that the Parties respective rights and obligations under this Agreement

with respect to the Tax Year or Tax Years (as the case may be) through and including the Tax Year during which such notification is delivered to the District, shall not be impaired or modified as a result of such termination and shall survive such termination unless and until satisfied and discharged.

## **ARTICLE VI**

### **TAX CREDITS**

#### **Section 6.1. APPLICANT'S ENTITLEMENT TO TAX CREDITS**

The Applicant shall be entitled to tax credits from the District under and in accordance with the provisions of Subchapter D of the Act and Comptroller Rules, provided that the Applicant complies with the requirements under such provisions, including the timely filing of a completed Application under Section 313.103 of the Texas Tax Code and Comptroller Rules.

#### **Section 6.2. DISTRICT'S OBLIGATIONS WITH RESPECT TO TAX CREDITS**

The District shall timely comply and shall cause the District's collector of taxes to timely comply with their obligations under Subchapter D of the Act and Comptroller Rules, including, but not limited to, such obligations set forth in Section 313.104 of the Texas Tax Code, and either Comptroller and/or Texas Education Agency Rules.

#### **Section 6.3. COMPENSATION FOR LOSS OF TAX CREDIT PROTECTION REVENUES**

If after the Applicant has actually received the benefit of a tax credit under Section 6.1, the District does not receive aid from the State pursuant to Texas Education Code § 42.2515 or other similar or successor statute with respect to all or any portion of such tax credit for reasons other than the District's failure to comply with the requirements for obtaining such aid, then the District shall notify the Applicant in writing thereof and the circumstances surrounding the State's failure to provide such aid to the District. The Applicant shall pay to the District the amount of such tax credit for which the District did not receive such aid within thirty (30) calendar days after receipt of such notice, and such payment shall be subject to the same provisions for late payment as are set forth in Section 7.4 and 7.5. If the District receives aid from the State for all or any portion of a tax credit with respect to which the Applicant has made a payment to the District under this Section 6.3, then the District shall pay to the Applicant the amount of such aid within thirty (30) calendar days after the District's receipt thereof.

## **ARTICLE VII**

### **ADDITIONAL OBLIGATIONS OF APPLICANT**

#### **Section 7.1. DATA REQUESTS**

During the term of this Agreement, and upon the written request of one Party or by the Comptroller (the “Requesting Party”), the other Party shall provide the Requesting Party with all information reasonably necessary for the Requesting Party to determine whether the other Party is in compliance with its obligations, including any employment obligations which may arise under this Agreement. The Applicant shall allow authorized employees of the District, the Comptroller, and/or the Appraisal District to have access to the Applicant’s Qualified Property and/or business records, in accordance with Texas Tax Code § 22.07, during the term of this Agreement, in order to inspect the project to determine compliance with the terms hereof. All inspections will be made at a mutually agreeable time after the giving of not less than forty-eight (48) hours prior written notice, and will be conducted in such a manner so as not to unreasonably interfere with either the construction or operation of the Applicant’s Qualified Property. All inspections may be accompanied by one or more representatives of the Applicant, and shall be conducted in accordance with the Applicant’s safety, security, and operational standards. Notwithstanding the foregoing, nothing contained in this Agreement shall require the Applicant to provide the District, the Comptroller, or the Appraisal District with any technical or business information that is private personnel data, proprietary, a trade secret or confidential in nature or is subject to a confidentiality agreement with any third party.

#### **Section 7.2. REPORTS TO OTHER GOVERNMENTAL AGENCIES**

The Applicant shall timely make any and all reports that are or may be required under the provisions of law or administrative regulation, including but not limited to the annual report or certifications that may be required to be submitted by the Applicant to the Comptroller under the provisions of Texas Tax Code § 313.032. The Applicant shall forward a copy of all such required reports or certifications to the District contemporaneously with the filing thereof. The obligation to make all such required filings shall be a material obligation under this Agreement.

#### **Section 7.3. APPLICANT’S OBLIGATION TO MAINTAIN VIABLE PRESENCE**

By entering into this Agreement, the Applicant warrants that:

- (a) it will abide by all of the terms of the Agreement;
- (b) it will Maintain Viable Presence in the District through the Final Termination Date of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the Applicant shall not be in breach of, and shall not be subject to any liability for failure to Maintain Viable Presence to the extent such failure is caused



by Force Majeure (as hereinafter defined), provided the Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure; and,

- (c) it will meet minimum eligibility requirements under Texas Tax Code, Chapter 313 throughout the value limitation and tax-credit settle-up periods.

#### **Section 7.4. CONSEQUENCES OF EARLY TERMINATION OR OTHER BREACH BY APPLICANT**

(a) In the event that the Applicant terminates this Agreement without the consent of the District, except as provided in Section 5.2, or in the event that the Applicant or its successor-in-interest fails to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, after the notice and cure period provided by Section 7.8, then the District shall be entitled to the recapture of all ad valorem tax revenue lost as a result of this Agreement together with the payment of penalty and interest, as calculated in accordance with Section 7.5, on that recaptured ad valorem tax revenue. For purposes of this recapture calculation, the Applicant shall be entitled to a credit for all payments made to the District pursuant to Article III. The Applicant shall also be entitled to a credit for any amounts paid to the District pursuant to Article IV.

(b) Notwithstanding Section 7.4(a), in the event that the District determines that the Applicant has failed to Maintain Viable Presence and provides written notice of termination of the Agreement, then the Applicant shall pay to the District liquidated damages for such failure within thirty (30) days after receipt of such termination notice. The sum of liquidated damages due and payable shall be the sum total of the District ad valorem taxes for all of the Tax Years for which a Tax Limitation was granted pursuant to this Agreement prior to the year in which the default occurs that otherwise would have been due and payable by the Applicant to the District without the benefit of this Agreement, including penalty and interest, as calculated in accordance with Section 7.5. For purposes of this liquidated damages calculation, the Applicant shall be entitled to a credit for all payments made to the District pursuant to Article III. The Applicant shall also be entitled to a credit for any amounts paid to the District pursuant to Article IV. Upon payment of such liquidated damages, the Applicant's obligations under this Agreement shall be deemed fully satisfied, and such payment shall constitute the District's sole remedy.

#### **Section 7.5. CALCULATION OF PENALTY AND INTEREST**

In determining the amount of penalty or interest, or both, due in the event of a breach of this Agreement, the District shall first determine the base amount of recaptured taxes owed less all credits under Section 7.4 for each Tax Year during the term of this Agreement since the Commencement Date. The District shall calculate penalty or interest for each Tax Year during the term of this Agreement since the Commencement Date in accordance with the methodology set forth in Chapter 33 of the Texas Tax Code, as if the base amount calculated for such Tax Year less all credits under Section 7.4 had become due and payable on February 1 of the calendar year following such Tax Year. Penalties on said amounts shall be calculated in accordance with the methodology set forth in Texas Tax Code § 33.01(a), or its successor statute. Interest on said



amounts shall be calculated in accordance with the methodology set forth in Texas Tax Code § 33.01(c), or its successor statute.

#### **Section 7.6. MATERIAL BREACH OF AGREEMENT**

The Applicant shall be in Material Breach of this Agreement if it commits one or more of the following acts or omissions:

- (a) Applicant is determined to have failed to meet its obligations to have made accurate representations of fact in submission of its Application as is required by Section 8.13, below.
- (b) Applicant fails to Maintain Viable Presence in the District, as required by Section 7.3 of this Agreement, through the Final Termination Date of this Agreement.
- (c) Applicant fails to make any payment required under Articles III or IV of this Agreement on or before its due date.
- (d) Applicant fails to create and maintain at least the number of New Jobs set forth it committed to create and maintain on Schedule C, Column C of its Application.
- (e) Applicant fails to create and maintain at least the number of Qualifying Jobs set forth it committed to create and maintain on Schedule C, Column E of its Application.
- (f) Applicant fails to create and maintain at least Eighty Percent (80%) of all New Jobs created by the Applicant on the project as Qualifying Jobs.
- (g) Applicant makes any payments to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on appraised value made pursuant to Chapter 313, Texas Tax Code, in excess of the amounts set forth in Articles III and IV, above. Voluntary donations made by the Applicant to the District after the date of execution of this Agreement, and not mandated by this Agreement or made in recognition of consideration for this Agreement for limitation on appraised value made pursuant to Chapter 313 are not barred by this provision.
- (h) Applicant fails to comply with any other term of this Agreement, or the Applicant fails to meet its obligations under the applicable Comptroller's Rules, and under the Texas Economic Development Act.

#### **Section 7.7. LIMITED STATUTORY CURE OF MATERIAL BREACH**

In accordance with the provisions of Texas Tax Code § 313.0275, for any full tax year which commences after the project has become operational, the Applicant may cure the Material

Breaches of this Agreement, defined in Sections 7.6(d) and 7.6(e) or 7.6(f), above, without the termination of the remaining term of this Agreement. In order to cure its non-compliance with Sections 7.6(d) and 7.6(e) or 7.6(f) for the particular Tax Year of non-compliance only, the Applicant may make the liquidated damages payment required by Texas Tax Code § 313.0275(b), in accordance with the provisions of Texas Tax Code § 313.0275(c).

#### **Section 7.8. DETERMINATION OF MATERIAL BREACH AND TERMINATION OF AGREEMENT**

Prior to making a determination that the Applicant has committed a material breach of this Agreement, such as making a misrepresentation in the Application, failing to Maintain Viable Presence in the District as required by Section 7.3 of this Agreement, failing to make any payment required under this Agreement when due, or has otherwise committed a material breach of this Agreement, the District shall provide the Applicant with a written notice of the facts which it believes have caused the material breach of this Agreement, and if cure is possible, the cure proposed by the District. After receipt of the notice, the Applicant shall be given ninety (90) days to present any facts or arguments to the Board of Trustees showing that it is not in material breach of its obligations under the Agreement, or that it has cured or undertaken to cure any such material breach.

If the Board of Trustees is not satisfied with such response and/or that such breach has been cured, then the Board of Trustees shall, after reasonable notice to the Applicant, conduct a hearing called and held for the purpose of determining whether such breach has occurred and, if so, whether such breach has been cured. At any such hearing, the Applicant shall have the opportunity, together with their counsel, to be heard before the Board of Trustees. At the hearing, the Board of Trustees shall make findings as to whether or not a material breach of this Agreement has occurred, the date such breach occurred, if any, and whether or not any such breach has been cured. In the event that the Board of Trustees determines that such a breach has occurred and has not been cured, it shall also terminate the Agreement and determine the amount of recaptured taxes under Section 7.4 (net of all credits under Section 7.4), and the amount of any penalty and/or interest under Section 7.5 that are owed to the District.

After making its determination regarding any alleged breach, the Board of Trustees shall cause the Applicant to be notified in writing of its determination (a "Determination of Breach and Notice of Contract Termination.").

#### **Section 7.9. DISPUTE RESOLUTION**

After receipt of notice of the Board of Trustee's Determination of Breach and Notice of Contract Termination under Section 7.8, the Applicant shall have ninety (90) days in which either to tender payment or evidence of its efforts to cure, or to initiate mediation of the dispute by written notice to the District, in which case the District and the Applicant shall be required to make a good faith effort to resolve, without resort to litigation and within ninety (90) days after the Applicant's receipt of notice of the Board of Trustee's determination of breach under Section 7.8, such dispute through mediation with a mutually agreeable mediator and at a mutually convenient time and place

for the mediation. If the Parties are unable to agree on a mediator, a mediator shall be selected by the senior state district court judge then presiding in Jefferson County, Texas. The Parties agree to sign a document that provides the mediator and the mediation will be governed by the provisions of Chapter 154 of the Texas Civil Practice and Remedies Code and such other rules as the mediator shall prescribe. With respect to such mediation, (i) the District shall bear one-half of such mediator's fees and expenses and the Applicant shall bear one-half of such mediator's fees and expenses, and (ii) otherwise each Party shall bear all of its costs and expenses (including attorneys' fees) incurred in connection with such mediation.

In the event that any mediation is not successful in resolving the dispute or that payment is not received before the expiration of such ninety (90) days, the District shall have the remedies for the collection of the amounts determined under Section 7.8 as are set forth in Texas Tax Code Chapter 33, Subchapters B and C, for the collection of delinquent taxes. In the event that the District successfully prosecutes legal proceedings under this section, the Applicant shall also be responsible for the payment of attorney's fees and a tax lien on the Applicant's Qualified Property and the Applicant's Qualified Investment pursuant to Texas Tax Code § 33.07 to the attorneys representing the District pursuant to Texas Tax Code § 6.30.

In any event where a dispute between the District and the Applicant under this Agreement cannot be resolved by the Parties, after completing the procedures required above in this Section, either the District or the Applicant may seek a judicial declaration of their respective rights and duties under this Agreement or otherwise, in any judicial proceeding, assert any rights or defenses, or seek any remedy in law or in equity, against the other Party with respect to any claim relating to any breach, default, or nonperformance of any covenant, agreement or undertaking made by a Party pursuant to this Agreement.

#### **Section 7.10. LIMITATION OF OTHER DAMAGES**

Notwithstanding anything contained in this Agreement to the contrary, in the event of default or breach of this Agreement by the Applicant, the District's damages for such a default shall under no circumstances exceed the greater of either any amounts calculated under Sections 7.4 and 7.5 above, or the monetary sum of the difference between the payments and credits due and owing to the Applicant at the time of such default and the District taxes that would have been lawfully payable to the District had this Agreement not been executed. In addition, the District's sole right of equitable relief under this Agreement shall be its right to terminate this Agreement.

The Parties further agree that the limitation of damages and remedies set forth in this Section 7.10 shall be the sole and exclusive remedies available to the District, whether at law or under principles of equity.

#### **Section 7.11. BINDING ON SUCCESSORS**

In the event of a merger or consolidation of the District with another school district or other governmental authority, this Agreement shall be binding on the successor school district or other governmental authority.

## ARTICLE VIII

### MISCELLANEOUS PROVISIONS

#### Section 8.1. INFORMATION AND NOTICES

Unless otherwise expressly provided in this Agreement, all notices required or permitted hereunder shall be in writing and deemed sufficiently given for all purposes hereof if (i) delivered in person, by courier (e.g., by Federal Express) or by registered or certified United States Mail to the Party to be notified, with receipt obtained, or (ii) sent by facsimile transmission, with “answer back” or other “advice of receipt” obtained, in each case to the appropriate address or number as set forth below. Each notice shall be deemed effective on receipt by the addressee as aforesaid; provided that, notice received by facsimile transmission after 5:00 p.m. at the location of the addressee of such notice shall be deemed received on the first business day following the date of such electronic receipt.

Notices to the District shall be addressed to the District’s Authorized Representative as follows:

Dr. Rodney Cavness, Superintendent  
**PORT NECHES-GROVES INDEPENDENT SCHOOL DISTRICT**  
620 Avenue C  
Port Neches, Texas 77651  
Fax: (409)724-7684

With a copy to:

Sara Leon  
Powell & Leon LLP  
115 Wild Basin Road, #106  
Austin, Texas 78746

or at such other address or to such other facsimile transmission number and to the attention of such other person as the District may designate by written notice to the Applicant.

Notices to the Applicant shall be addressed to:

Hugh Spinks  
Vice President, Tax  
**AIR LIQUIDE LARGE INDUSTRIES U.S., LP**  
P.O. Box 460149,  
Houston, TX 77056-8149  
Fax: 713-402-2062

or at such other address or to such other facsimile transmission number and to the attention of such other person as the Applicant may designate by written notice to the District.

## **Section 8.2. EFFECTIVE DATE, TERMINATION OF AGREEMENT**

- (a) This Agreement shall be and become effective on the date of final approval of this Agreement by the District's Board of Trustees,
- (b) The obligation to Maintain Viable Presence under this Agreement shall remain in full force and effect through the termination in full date established in Section 1.2 of this Agreement.
- (c) In the event that the Applicant fails to make a Qualified Investment in the amount of Thirty Million Dollars (\$30,000,000.00), or greater, during the Qualifying Time Period, this Agreement shall become null and void on December 31, 2016.

## **Section 8.3. AMENDMENT TO AGREEMENT; WAIVERS**

This Agreement may not be modified or amended except by an instrument or instruments in writing signed by all of the Parties. Waiver of any term, condition or provision of this Agreement by any Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach of, or failure to comply with, the same term, condition or provision, or a waiver of any other term, condition or provision of this Agreement. By official action of the Board of Trustees, this Agreement may be amended to include, in the Applicant's Qualified Investment, additional or replacement Qualified Property not specified in EXHIBIT 3, provided that prior to such approval, Applicant shall meet all requirements of 34 Tex. Admin Code §9.1053(f)(2)(O), or any successor rule adopted by the Comptroller, and the Applicant reports to the District, the Comptroller, and the Appraisal District, in the same format, style, and presentation as the Application, all relevant investment, value, and employment information that is related to the additional property. Any amendment of the Agreement adding additional or replacement Qualified Property pursuant to this Section 8.3 shall, (1) require that all property added by amendment be eligible property as defined by Texas Tax Code, § 313.024; (2) clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the original Agreement; and (3) define minimum eligibility requirements for the recipient of limited value. This Agreement may not be amended to extend the value limitation time period beyond its eight year statutory term.

## **Section 8.4. ASSIGNMENT**

The Applicant may assign this Agreement, or a portion of this Agreement, to an Affiliate or a new owner or lessee of all or a portion of the Applicant's Qualified Property and/or the Applicant's Qualified Investment, provided that the Applicant shall provide written notice of such assignment to the District. Upon such assignment, the Applicant's assignee will be liable to the District for outstanding taxes or other obligations arising under this Agreement. A recipient of limited value under Texas Tax Code, Chapter 313 shall notify immediately the District, the Comptroller, and the Appraisal District in writing of any change in address or other contact information for the owner of the property subject to the limitation agreement for the purposes of

Texas Tax Code § 313.032. The assignee's or its repotting entity's Texas Taxpayer Identification Number shall be included in the notification.

#### **Section 8.5. MERGER**

This Agreement contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the Parties and others relating hereto are superseded by this Agreement.

#### **Section 8.6. MAINTENANCE OF APPRAISAL DISTRICT RECORDS**

When appraising the Applicant's Qualified Property and the Applicant's Qualified Investment subject to a limitation on Appraised Value under this Agreement, the Chief Appraiser of the Appraisal District shall determine the Market Value thereof and include both such Market Value and the appropriate value thereof under this Agreement in its appraisal records.

#### **Section 8.7. GOVERNING LAW**

This Agreement and the transactions contemplated hereby shall be governed by and interpreted in accordance with the laws of the State of Texas without giving effect to principles thereof relating to conflicts of law or rules that would direct the application of the laws of another jurisdiction. Venue in any legal proceeding shall be in Jefferson County, Texas.

#### **Section 8.8. AUTHORITY TO EXECUTE AGREEMENT**

Each of the Parties represents and warrants that its undersigned representative has been expressly authorized to execute this Agreement for and on behalf of such Party.

#### **Section 8.9. SEVERABILITY**

If any term, provision or condition of this Agreement, or any application thereof, is held invalid, illegal or unenforceable in any respect under any Law (as hereinafter defined), this Agreement shall be reformed to the extent necessary to conform, in each case consistent with the intention of the Parties, to such Law, and to the extent such term, provision or condition cannot be so reformed, then such term, provision or condition (or such invalid, illegal or unenforceable application thereof) shall be deemed deleted from (or prohibited under) this Agreement, as the case may be, and the validity, legality and enforceability of the remaining terms, provisions and conditions contained herein (and any other application such term, provision or condition) shall not in any way be affected or impaired thereby. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement in an acceptable manner so as to effect the original intent of the Parties as closely as possible to the end that the transactions contemplated hereby are fulfilled to the extent possible. As used in this Section 8.9, the term "Law" shall mean any applicable statute, law (including common law), ordinance, regulation, rule, ruling, order, writ, injunction,



decree or other official act of or by any federal, state or local government, governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, or judicial or administrative body having jurisdiction over the matter or matters in question.

#### **Section 8.10. PAYMENT OF EXPENSES**

Except as otherwise expressly provided in this Agreement, or as covered by the application fee, each of the Parties shall pay its own costs and expenses relating to this Agreement, including, but not limited to, its costs and expenses of the negotiations leading up to this Agreement, and of its performance and compliance with this Agreement.

#### **Section 8.11. INTERPRETATION**

When a reference is made in this Agreement to a Section, Article or Exhibit, such reference shall be to a Section or Article of, or Exhibit to, this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The words “include,” “includes” and “including” when used in this Agreement shall be deemed in such case to be followed by the phrase “but not limited to” words used in this Agreement, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context shall require. This Agreement is the joint product of the Parties and each provision of this Agreement has been subject to the mutual consultation, negotiation and agreement of each Party and shall not be construed for or against any Party.

#### **Section 8.12. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

#### **Section 8.13. ACCURACY OF REPRESENTATIONS CONTAINED IN APPLICATION**

The Parties acknowledge that this Agreement has been negotiated, and is being executed, in reliance upon the information contained in the Application. The Applicant warrants that all information, facts, and representations contained therein are true and collect. The parties further agree that the Application and all the attachments thereto are included by reference into this Agreement as if set forth herein in full.

In the event that the Board of Trustees, after completing the procedures required by Sections 7.8 and 7.9 of this Agreement, makes a written determination that the Application was either incomplete or inaccurate as to any material representation, information, or fact, the Agreement shall be invalid and void except for the enforcement of the provisions required by 34. Texas Administrative Code § 9.1053(f)(2)(K).

#### Section 8.14. PUBLICATION OF DOCUMENTS

The Parties acknowledge that the District is required to publish the Application and its required schedules, or any amendment thereto; all economic analyses of the proposed project submitted to the District; the approved and executed copy of this Agreement or any amendment thereto; and each application requesting tax credits under Texas Tax Code § 313.103, as follows:

- a. Within seven days of such document, the school district shall submit a copy to the Comptroller for Publication on the Comptroller's Internet website.
- b. District shall provide on its website a link to the location of those documents posted on the Comptroller's website.
- c. This Section does not require the Publication of information that is confidential under Texas Tax Code § 313.028.

*IN WITNESS WHEREOF*, this Agreement has been executed by the Parties in multiple originals on this 12th day of December, 2016.

**AIR LIQUIDE LARGE INDUSTRIES U.S., LP**  
a Delaware limited liability company

By: 

Authorized Representative

Name: Hugh A Spinks

Title: Assistant Secretary

**PORT NECHES-GROVES INDEPENDENT  
SCHOOL DISTRICT**

By: 

**DARREN MCCUTCHEON**  
President, Board of Trustees

Attest:

By: 

**SCOTT BARTLETT**  
Secretary, Board of Trustees



## **EXHIBIT 1**

### **DESCRIPTION OF QUALIFIED REINVESTMENT ZONE**

A Reinvestment Zone was originally created March 10, 2014 by action of the Jefferson County Commissioner's Court (the "County"). A map of the Reinvestment Zone is attached, below to this **EXHIBIT 1**.

As a result of the action of the County, the Reinvestment Zone includes real property within the boundaries of the Port Neches-Groves Independent School District and Jefferson County, Texas, more specifically described by the legal description also attached to this **EXHIBIT 1**.

**METES AND BOUNDS  
PROPOSED PLANT SITE  
JEFFERSON COUNTY, TEXAS**

Being a metes and bounds description of a proposed plant site being a part of Texaco Chemical Company's Parcel 8A and being the same tract of land purchased from B. F. Goodrich Company as recorded in Volume 2285, Page 216 of the Deed Records of Jefferson County, Texas, and also being situated in the Thomas F. McKinney Survey, Abstract 41, Jefferson County, Texas, said proposed plant site being more particularly described as follows:

All bearings are referenced to the west line of said tract recorded in Volume 2285, Page 216 of the deed records.

COMMENCING at the intersection of the north right-of-way line of State Highway No. 366 and the east right-of-way line of Park Street, Thence N 08°16'22" E, along the east right-of-way of Park Street, a distance of 359.00 feet to the Point of Beginning of the herein described proposed plant site, said point being a ½" iron rod found marking the southwest corner of said tract and the southwest corner of the proposed plant site;

THENCE N 08°16'22" E, along the east right-of-way line of Park Street, a distance of 479.78 feet to a point;

THENCE S 81°43'38" E, a distance of 482.44 feet to a point;

THENCE S 08°16'22" W, a distance of 209.78 feet to a point;

THENCE N 81°43'38" W, a distance of 102.27 feet to a point;

THENCE S 08°16'22" W, a distance of 270.00 feet to a point;

THENCE N 81°43'38" W, a distance of 380.17 feet to a the POINT OF BEGINNING;

Proposed plant site containing 203,852.10 square feet or 4.680 acres.

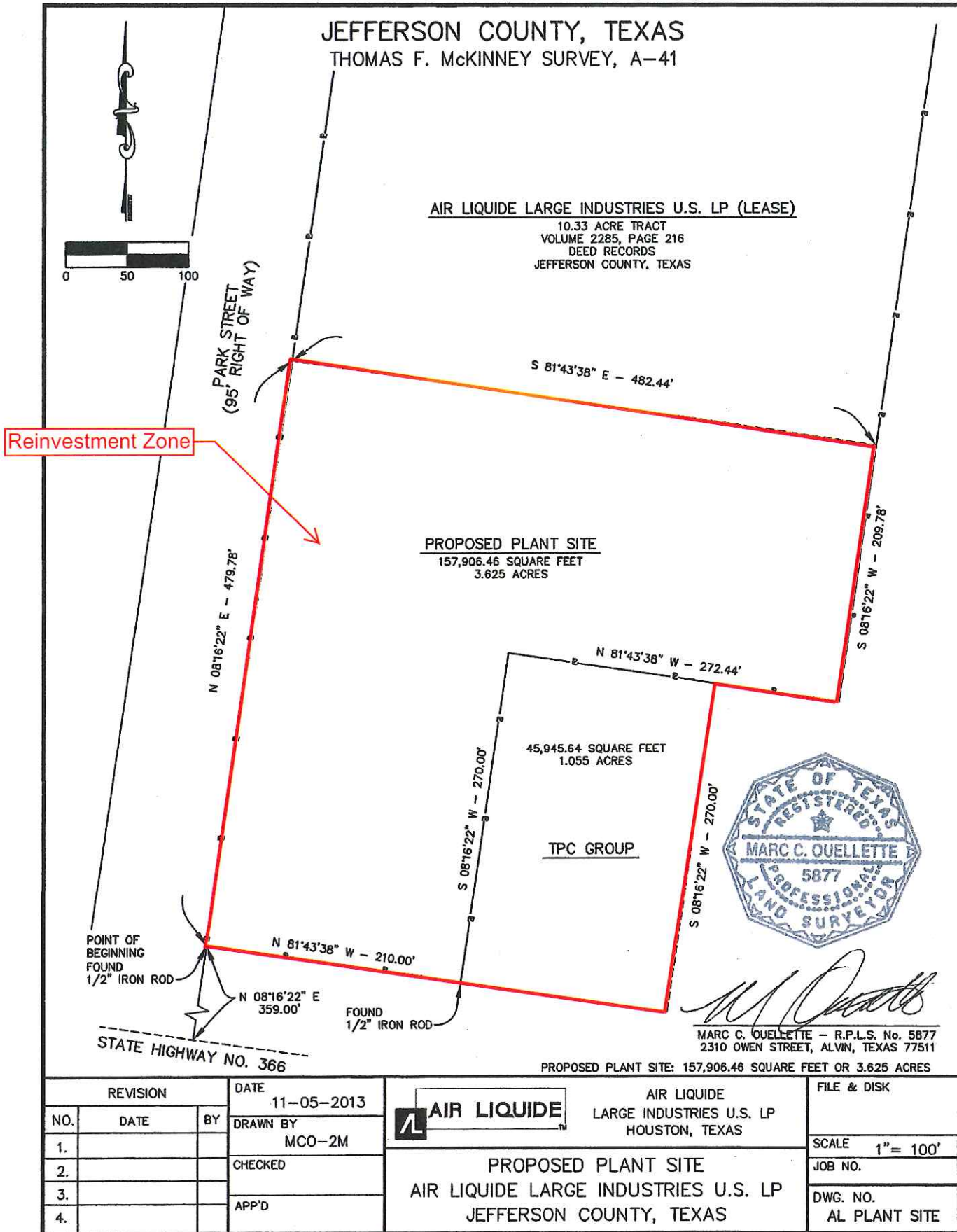
November 5, 2013



Marc C. Ouellette – R.P.L.S. No. 5877  
2310 Owen Street, Alvin, Texas 77511



# REINVESTMENT ZONE MAP



## **EXHIBIT 2**

### **LOCATION OF QUALIFIED INVESTMENT/QUALIFIED PROPERTY**

All Qualified Property owned by Applicant and located within the boundaries of both the Port Neches-Groves Independent School District and the Reinvestment Zone originally created on March 10, 2014 by action of the Commissioner's Court of Jefferson County (the "County") is intended to be included in this Agreement.

A map of the Reinvestment Zone created by the City is attached to **EXHIBIT 1**. Specifically, all Qualified Property of the Applicant located within the boundaries on the map first placed in service after December 11, 2013 used in connection with the manufacturing of Industrial Gases.

### **EXHIBIT 3**

#### **DESCRIPTION OF THE APPLICANT'S QUALIFIED INVESTMENT/QUALIFIED PROPERTY**

The proposed project consist of an Air Separation Unit ("ASU" or "Project). The proposed Project is to build and install a new 2,400 tons per day of oxygen at high pressure ASU connected to Air Liquide's pipeline system that runs from Corpus Christi, Texas to Lake Charles, Louisiana.

Qualified property includes, but is not limited to, air filtration equipment, heat exchangers, condensers, inter-stage coolers, distillation columns, cold box, air compressors, turbines, molecular sieves, expanders, pumps, motors, storage vessels, interplant piping, distributive control systems, electric switchyard, utility infrastructure improvements, pollution control equipment, and land improvements such as paving and parking areas.

The facility will also require a relatively small amount of personal property. All of the property for which the Applicant is seeking a limitation on appraised value will be owned by the Applicant or a valid assignee pursuant to this Agreement.

Findings and Order of the Port Neches-Groves Independent School District  
Board of Trustees under the Texas Economic Development Act on the  
Application Submitted by Air Liquide Large Industries U.S., LP  
(Tax ID 32035542425)  
(Application # 354)

**ATTACHMENT H**  
**Letter from the Texas Commissioner of**  
**Education Regarding Impact on**  
**Enrollment**





1701 North Congress Ave. • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • [www.tea.state.tx.us](http://www.tea.state.tx.us)

Michael Williams  
Commissioner

January 23, 2014

Mr. Robert Wood  
Director, Economic Development and Analysis  
Texas Comptroller of Public Accounts  
Lyndon B. Johnson State Office Building  
111 East 17th Street  
Austin, Texas 78774

Dear Mr. Wood:

The Texas Education Agency (TEA) has analyzed the revenue gains that would be realized by the proposed Air Liquide Large Industries U.S. LP project for the Port Neches-Groves Independent School District (PNGISD). Projections prepared by the TEA State Funding Division confirm the analysis that was prepared by Moak, Casey and Associates and provided to us by your division. We believe their assumptions regarding the potential revenue gain are valid, and their estimates of the impact of the Air Liquide Large Industries U.S. LP project on PNGISD are correct.

Please feel free to contact me by phone at (512) 463-9186 or by email at [al.mckenzie@tea.state.tx.us](mailto:al.mckenzie@tea.state.tx.us) if you need further information about this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Al McKenzie", followed by a horizontal line.

Al McKenzie, Manager  
Foundation School Program Support

AM/rk